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A Comparative Analysis of Free Trade Between the U.S. and the EU : A Case Study of the U.S./Chile FTA and the EU/Chile FTA

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ABSTRACT

Unlike many studies that assess the impacts of free trade agreements (FTAs), this thesis is a study of the negotiated outcomes in FTAs between the United States (U.S.) and Chile, and the European Union (EU) and Chile. Existing negotiation literature pertains to multilateral trade talks, dispute settlements or bilateral one good trade agreements. Studies regarding the negotiation process and other factors influencing outcomes in comprehensive FTAs are rare. In order to address this gap in the literature, this thesis is an analysis of how and why the FTA between Chile and the U.S. differs from the FTA between Chile and the EU, in particular with regards to sensitive agricultural goods. As the two agreements were negotiated and implemented within similar time frames, and thus a similar political and economic environment within Chile, it is possible to use the theory-testing method of difference case study approach. This framework helps to test the validity of one leading theory of economic negotiations posited by Odell. Moreover, any shortcomings in the applicability of Odell's theory to these specific negotiations can be ascertained using this methodology. Odell's theory postulates that negotiated outcomes are a result of market conditions, domestic politics, and negotiator beliefs and strategies. In addition to causality in FTA negotiations, the case study will ascertain how the U.S. and the EU differed in their approaches to negotiating free trade. Conclusions drawn from this study include that there are varying degrees of sensitivity in agriculture which result in special and specific negotiated outcomes. Furthermore, the U.S. and the EU differ in their approaches to free trade which inevitably affects negotiated outcomes. Overall, Odell's theory is a competent basis for understanding these FTA negotiated outcomes. Additional theoretical understanding of the impact of the institutional considerations in the negotiation process and existing domestic policies could however add to the comprehensiveness of this theory.

This thesis is approved for recommendation

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ABBREVIATIONS

APAC: Agricultural Policy Advisory Committee[1]
ATAC: Agricultural Technical Advisory Committee
BATNA: Best alternative to a negotiated agreement
CAP: Common Agricultural Policy
COOL: Country of Origin Labeling[1]
DG: Directorate General
DIRECON: Dirección General de Relaciones Económicas Internacionales (Directorate General of International Economic Relations)[1]
EEZ: Exclusive Economic Zone
ENT: Economic Negotiation Theory
ERS: Economic Research Service
EU: European Union
FDI: Foreign Direct Investment[1]
FTA: Free Trade Agreement
GAO: Government Accountability Office[1]
GDP: Gross Domestic Product
GI: Geographical Indicators
GSP: Generalized System of Preferences
IP: Intellectual Property
LDC: Less Developed Country[1]
MERCOSUR: Southern Common Market
MFN: Most Favored Nation
NAFTA: North American Free Trade Agreement
NTB: Non-Tariff Barriers
OECD: Organization for Economic Cooperation and Development[1]
PBS: Price Band System
PSE: Producer Subsidy Equivalent
PTA: Preferential Trade Area[1]
ROO: Rules of Origin
SIA: Sustainability Impact Assessment[1]
SCT: Single Commodity Transfer
SOFOFA: Sociedad de Fomento Fabril
SPS: Sanitary and Phytosanitary Standards
TRQ: Tariff Rate Quota
TBT: Technical Barriers to Trade
TPA: Trade Promotion Authority
TRIPS: Trade Related Aspects of Intellectual Property Rights
U.S.: United States
WTO: World Trade Organization

[1] Used in the annexes only

CHAPTER 1: INTRODUCTION

1.1 Purpose

The purpose of this thesis is twofold. First, this study describes how the negotiated outcomes of the Chile/United States (U.S.) Free Trade Agreement (FTA) compare to the Chile/European Union (EU) FTA, particularly with regards to agricultural goods. Second, the study attempts to explain the reasons for the differences in the negotiated outcomes of these two FTAs by way of a method of difference case study, focusing particularly on explanatory variables deemed relevant by economic negotiation theory (ENT).

1.2 Objectives

The first objective of this study is to compare the outcomes in the U.S./Chile FTA and the EU/Chile FTA. This objective involves comparing the institutional structures, economic instruments utilized and exclusions in each agreement. The institutional structures include differences in how the agreements deal with sanitary and phytosanitary standards (SPS), intellectual property (IP) and geographical indicators (GI), as well as other technical barriers to trade (TBT). Economic instruments mainly refer to the market access sections of the agreements including specific information regarding tariff schedules and non-tariff barriers which impact market access. Exclusions range from those products which have partial but not complete liberalization to those products which have no additional market access.

While market access negotiations typically involve more than just agricultural goods, this study will focus on the agricultural goods which can be identified as “sensitive”. According to the World Trade Organization (WTO), countries may designate a certain amount of products as “sensitive” based on criteria regarding food security, livelihood security and rural development (World Trade Organization 2006). These sensitive products are able to maintain greater protection as they are considered to be exceptional and therefore do not have to adhere to

existing WTO rules regarding market access. A similar characterization appears in FTAs. In general, grains, oils, sugar, meat and dairy are considered sensitive throughout the world as many countries provide domestic support for these crops for reasons of food security and rural livelihood. This support can be in terms of direct or indirect subsidies as well as border protection such as tariffs and other border barriers. Annex 2 goes into greater detail regarding why agriculture is sensitive and the way it is treated in accordance with the sensitive quality of the sector. The three countries[2] included in this study have a few additional goods which are considered sensitive due to the comparative competitiveness between the FTA partners in the studied areas. As such, the list of sensitive goods in this study includes wheat, sugar, dairy, poultry, wine, and fish. Studying these products provides insight into how sensitivities impact negotiations and how outcomes may reflect the degree of sensitivity of a sector.

The second objective is to determine reasons for the differences in the two agreements. In previous studies, researchers have suggested that outcomes in negotiations are a result of power differentials. A more recent body of research, which is referred to as Economic Negotiation Theory (ENT), suggests that the outcomes have less to do with power relations and more to do with the negotiator and domestic political and economic conditions (see Evans, Jacobson and Putnam (1993), Milner (1997) and Odell (2003)). Using the framework provided by Odell in his book Negotiating the World Economy, this research attempts to test the relevance of this theory of economic negotiations and determine if differences in three proposed causal variables, market conditions, negotiator beliefs and strategies, and domestic politics, can be used to explain

[2] Although the European Union is not a country, it is easier to refer to it as such for comparative purposes. Appendix 1 lists all of the current member states, the 15 who were member states at the time of negotiations and those member states which belong to the Eurozone.

variation in the outcomes or if the outcomes are more of a result of something else. Furthermore, this research contributes to the current theoretical literature by providing specific case evidence.

1.3 Rationale for this Research

ENT research has focused on negotiations at the multilateral level, in dispute settlement and one good trade treaties. To the best of my knowledge, no study has analyzed the negotiations or outcomes of a comprehensive FTA, much less compared two comprehensive FTAs. However, this would prove a useful exercise as it can help to 1) add to existing literature regarding complex trade negotiations with multiple goods considered, 2) determine what makes particular products or industries sensitive and how this differs from country to country and 3) identify more concise explanatory variables in FTA outcomes.

1.3.1 Rationale for the Qualitative Case Study

For a method of difference case study, it is important to be able to control for as much as possible so that differences in the cases can be attributed to a determined causal variable with more certainty. This study is appropriate for such a method because economic, political and strategic variables in Chile may be controlled as the agreements were negotiated at the same time with Chile and as such, considerable variability in the cases can be attributed to actions or environments that originate in the U.S. or the EU. Indeed, the EU began their negotiations with Chile on November 24, 1999 and reached an agreement on April 26, 2002. The U.S. began negotiating their FTA on November 29, 2000 and concluded negotiations on December 11, 2002 (Organization of American States 2011).

The rationale for comparing the U.S. and the EU in FTAs is that they are both entities that have sought out trade agreements with smaller countries and have promoted liberalization at global and bilateral levels. During his term as president, George W. Bush instigated an official policy of “competitive liberalism”, which involved entering into various trade agreements in

order to strengthen partnerships, create two-way trade preferences which were previously one way due to the Generalized System of Preferences (GSP) granted to developing countries, and to push along liberalization progress at the multilateral level (GAO 2007). The Chilean agreement was one such agreement negotiated and implemented during this time. The EU did not have a similar stance; however, as the U.S. was pursuing 17 FTAs with 47 countries within a 5 year period (2002-2007) within the framework of Trade Promotion Authority (TPA)[3], the EU and other countries/economic entities had to act in order to avoid trade diversion costs (Andriamananjara 2003). Regardless of the reasons the U.S. and the EU have entered into FTAs, it is interesting to compare the approaches both sides take, the pressures each side is confronted with, and what the outcomes of FTAs are given different environments and strategies of both entities.

1.3.2 Rationale for Focusing on Agriculture

At the multilateral level in the Doha Round, much of the delay in trade negotiations has been a result of sensitivities in agriculture (Elliot 2006). Indeed, according to economist K. A. Elliott with the Peterson Institute for International Economics, agriculture is "the sector with the highest remaining barriers in rich countries and…tariffs on agricultural products entering high-income countries are roughly five times higher than the average for merchandise overall" (Elliot 2006). At the global level, little progress has been made in the Doha Development Round since the agricultural "modalities framework" was presented in 2008, largely due to disagreements between developing and developed countries over agriculture (Schnepf and Hanrahan 2010). Annex 2 documents more closely the struggles in multilateral negotiations over agriculture. The past and current difficulties in addressing agriculture in trade negotiations is indicative of the

[3] This framework allows for greater ease in negotiating and implementing FTAs in the U.S.

need to study agriculture in FTAs, especially from the perspective of the high-income countries negotiating with developing countries.

Agriculture was also an important issue in the two trade agreements considered in this study. The U.S. and the EU both subsidize agriculture fairly heavily whereas Chile has an open market approach that is oriented towards the export of primary products. In terms of total trade and total trade value, copper is the principal export from Chile. They are also competitive in agro-food production. Indeed, of the top ten Chilean exports: wood, fish, animal and vegetable oils, fats and waxes, wine and grapes are all important in terms of value and volume (United Nations 2009). Although at the time of the FTA negotiations Chilean exports to the U.S. and the EU were quite small in terms of total trade for each entity, the potential that Chile presented in agricultural and natural resource-based products made it more of a contentious issue. Moreover, Chile has growing seasons that are complementary to the U.S. and the EU as it is located in the southern hemisphere; however, the use of refrigeration and the growing potential of processed foods could present competition to domestic production in the U.S. and the EU and vice versa for Chile.

1.4 Thesis Organization

Chapters one through three provide a foundation for the study of FTA negotiations. The first chapter is a presentation of the objectives of the study as well as a brief introduction to the topic and motivations for this study. Chapter two presents the methodologies in greater depth for approaching this type of research. It includes a brief literature review on methods used in previous studies as well as benefits of using one methodological approach over another. The third chapter provides the theoretical background for the frameworks used in economic negotiation literature.

Chapter four provides specific details of the outcomes of the FTAs by way of an initial descriptive case study. The outcomes are the independent variables and are discussed in terms of tariff rates, tariff rate quotas (TRQs), tariff reduction schemes, exclusions and safeguards as well as other non-tariff barriers (NTBs) and political arrangements. After the descriptive case study, analytical comparative case studies of selected agricultural goods specifically address the role that the tested independent variables had in the negotiated outcomes. It will also address the relative outcomes to determine which side was most successful in meeting their objectives for each area.

The final two chapters make an assessment of Odell's theory and provide conclusions, limitations and potential implications of the study. Chapter five specifically addresses causality as shown by the cross case comparisons both between the US and the EU and between selected sensitive products in each agreement. The perceived reasons for negotiated outcomes as evaluated by the case studies are compared with Odell's theory to determine: 1) the completeness of Odell's theory and 2) additional theoretical insights drawn from the case studies which are not included in Odell's theory. Chapter six summarizes the findings of the research and provides implications for the future including the need for greater research in the area of trade negotiations and the creation of a comprehensive theory for understanding FTA negotiated outcomes.

Annexes 1 and 2 provide the contextual background for the study of these two FTAs. Annex 1 begins by discussing the economic and political environment leading up to the negotiations as well as the development path of Chile and the economic and political orientation of the U.S. and the EU with regards to trade. The concept of liberalization and the pressures in FTA negotiations on all parties is discussed, and provides valuable background for the case

studies. Annex 2 provides a discussion of negotiation pressures in agriculture in particular and relates these pressures to the three countries included in this study.

CHAPTER 2: METHODOLOGY

2.1 Qualitative versus Quantitative Research Methods

When conducting research, it is important to choose appropriate research methods tailored to the study and objectives. The desired outcome of the research in particular is important in determining which method one should use. Statistical methods provide information regarding how much a change in one independent variable contributes to a change in the dependent variable whereas case study methods help to identify "causal mechanisms that connect causes and effects" (Falleti 2006). As such, if one wants to know how much impact one variable has on an outcome, then statistical methods would be better; however, if someone wants to know what causes an outcome, then one may be more inclined to use qualitative methods. Indeed, in trade theory, quantitative methods such as gravity, general equilibrium and partial equilibrium models have been heavily used in describing both the flow of goods as well as the impacts of trade policy outcomes. Quantitative methods have also been used in diplomacy and negotiation literature, although case studies and other qualitative methods have been much more prevalent (Ripsman and Blanchard 2006).

In addition to knowing what one wants to learn from a study, it is important to know the strengths and weaknesses of whichever method is chosen. This awareness will allow the researcher to overcome possible issues associated with using one method over another or simply allow the researcher to account for them at some point in the research. When dealing with quantitative assessments, there is a risk of interpreting the results incorrectly or over-simplifying a result. In the case of qualitative assessments, the opposite may be true as there is a risk of identifying too many causal variables to be understandable or helpful in a real-life situation. Simply knowing these potential problems can help a researcher deal with them or avoid them.

2.2 Methods used in diplomacy literature

In diplomacy literature, there are essentially three main frameworks used for studying economic negotiations: systemic or international, domestic and mixed. Each of these frameworks has used a variety of methods or approaches to test and create theories. Although the theoretical axioms are discussed in more detail in chapter three, it is important at this point to describe the basic facets of each framework as well as the scientific approaches used and their appropriateness based on their goals. The first and second approaches, the international and domestic approaches, will not be the focus of this thesis as ENT is a mixed framework and therefore has components of the first two approaches. Each of the first two approaches provides a basis for the ENT framework however and as such, it is important to understand these frameworks.

Systemic or international theories hypothesize that outcomes are a result mainly of the relative power of nations and other internationally oriented explanations. This theory lends itself to "large-N" statistical studies as they focus on correlations of democracy and peace or relative size as an indicator of relative outcomes. As the focus of these studies is at the macro-level, it is acceptable to use statistical analysis as the study has fewer hypothetical variables as well as a larger population; however, this is not to say that qualitative case studies would not be a useful framework for studies from this paradigm. Like other proponents of the case study methodology, Ripsman and Blanchard hold that case studies can be much better at determining causality, although they admit that because of the limited number of cases, it is "at a strong comparative disadvantage to quantitative analysis in finding correlations and making inferences beyond the cases" (Ripsman and Blanchard 2006, 3). Because of the complementariness of the two approaches, they propose that researchers take advantage of a combined approach.

The second framework of domestic theories in this literature is one wherein the negotiator and domestic pressures are all that matter in a given negotiation. This could be in terms of negotiator behavior vis-a-vis its domestic institutions, such as the culture or norms, as well as the degree to which the public interacts with the negotiators regarding an issue. This body of work uses a variety of approaches. These approaches include game theory, case studies, and institutional frameworks of analysis (Kremenyuk, Sjostedt and Zartman 2000).

The game theory approach within the domestic theory of economic negotiations discusses negotiated outcomes in terms of Pareto-efficiency which relates inherently to the use of value-claiming versus value-creating negotiation strategies. The social optimum, otherwise known as the point that is Pareto efficient, is likely the result of value-creation, whereas a Nash Equilibrium is likely the result of value-claiming behavior, and is the point at which neither side has an incentive to deviate (Neugeborn 2000). Others look at concession strategies in terms of game theory classifying the interacting strategies in terms of games such as "Chicken Dilemma Game" or "Prisoners Dilemma Game" which can give clues as to what extent the likely outcomes are based on the Pareto outcome or Nash equilibrium (Neugeborn 2000).

Other methods in domestic theory include the analysis of efficiency in negotiated outcomes as well as theoretical predictions regarding efficient outcomes in the future and recommendations for future negotiations. For example, Metcalfe suggests that "two negotiators who have reached an initial agreement should renegotiate in order to reach the efficient frontier" (Metcalfe 2000, 34). The limitations of such approaches are that they do not determine causality but rather help to define outcomes and predict future outcomes in terms of the efficiency frontier and theoretic game outcomes.

Qualitative methods are also commonly used in the domestic framework but mostly when studying how negotiation strategies come about and affect a given negotiation. For example, Elms uses case studies to examine U.S. negotiations with Japan and Korea over automobiles to demonstrate how industry groups shape negotiations in terms of the positions the governments take and the strategies they use in order to reach their objectives which not only provides valuable information about the positions they take but also how it affects their relative outcome (Elms 2006). In an article over bargaining within the EU, case studies are also used to determine how the domestic situations as well as the special EU institutional structure will affect the bargaining strategies and process in economic negotiations (Conceicao-Heldt 2006). Other more institutionally-oriented approaches detail how culture or the market affects negotiations and pinpoint these institutional structures as the unit of analysis as it relates to outcomes (Brett et al. 1998 or Blount 2000 for example).

A more recent approach, and the body of work within which this thesis is situated, is a mixed approach wherein macro-level variables are seen as important as is the negotiator and domestic negotiating environment. Odell uses a mixed-method approach to determine how economic indicators such as import penetration as well as political indicators such as relative power affect the propensity to enter into conflict in economic negotiations as well as the outcome of these economic negotiations (Odell 1985). Much of the work in this area has been conducted by using case studies that rely on process tracing, the method of difference and other case study methods. In a book from which much of this study is oriented, Odell uses various case studies to prove his points of causality in negotiations in Negotiating the World Economy. The Institute for International Economics (2006) also utilized case studies to illustrate their points regarding U.S. trade negotiation outcomes in their two volume book series: Case Studies in U.S. Trade

Negotiation. Similarly, Kremenyuk and his colleagues (2000) use case studies to link economic and negotiation theory in a seminal piece on the topic: International Economic Negotiation: Models versus Reality. Although case studies have been used to test theories in this framework, case studies regarding bilateral trade negotiations are rare and are perhaps non-existent for comprehensive FTAs.

Much of the research within this mixed framework is centered on how different conditions affect one's negotiating position and the strategies and tactics that are therefore used. What sets this apart from the previous literature, however, is that it includes theoretical contributions from the systemic framework by insisting that relative power does play an important role in how countries are able to negotiate. For example, in their working paper discussing the EU budget negotiations, Dur and Mateo developed a typology of negotiation tactics and, using "Best Alternative to a Negotiated Agreement" (BATNA) analysis and process tracing case study methods, they were able to relate bargaining power to the tactics used in negotiations (Dur and Mateo 2008). Similarly, Odell argues that interaction with international institutions and other supra-domestic forces may have an impact on the favorable outcomes from Latin American countries in trade negotiations using across-case comparison (Odell 2001).

2.3 Case Study Methods

Within the qualitative approach, there are various methods which can be used to make an assessment, whether this is to test a theory, develop a theory, to categorize an occurrence or multiple occurrences or to make a meaningful comparison. One method to accomplishing these various purposes is a case study although there are actually many different types of case studies. Indeed, even in the area of single case studies, one may conduct a descriptive case study, a case study which gives a preliminary illustration of a theory, a disciplined interpretive case study which applies a theory to a new project, a hypothesis-generating case study, a least or most likely

case study, or a deviant case study which is used to disprove a theory or process (Odell 2001). A single case study simply denotes that one is studying one situation, occurrence, or outcome to test theory or describe something of interest to readers. Alternatively, the method of difference or agreement, which is sometimes called Mill's Methods because the design was created by John Stuart Mill, uses two well-matched cases in order to compare the cases to accomplish case study goals (Bennett and George 1997). As in deciding between qualitative and quantitative research methods, it is important to use the same criteria in deciding which type of case study to conduct: what is the purpose of your study, what do you want to find out and what are the limitations and strengths of each approach?

Case studies may be classified in different ways than those described above. For example, Lin describes three main types of case studies: exploratory, explanatory and descriptive; however, case studies are generally used to delve into the details of an event, process, or situation, no matter the purpose (Tellis 1997). The purpose of a case study determines how it should be approached. Nevertheless, in any case study, it is an important first step to define your research question and pick your case, in other words, to design your case study. After the designing stage, one should conduct the case study, thereafter analyzing the evidence and determine the conclusions (Tellis 1997). If the purpose is to generate theory, after conducting the case study, the researcher may then develop hypotheses, relate these hypotheses to the literature and then reach closure (Eisenhardt 1989, 533).

No matter the purpose, one of the most important aspects of the case study is to determine the unit of analysis; this will determine how a case study is approached and where the focus will be. This unit of analysis can be a system of action such as how different sides use information that they have to negotiate. It could also be a set of people including their actions in

a particular process or on another relevant unit within the case which can help to understand what is being examined. The specification of the unit of analysis will help to determine not only the level of analysis but also where the focus of the study will be so that data can be accumulated for this area and level. This data collection will not be the end of the research. In case studies it is important to engage in a process called triangulation in order to insure the internal validity of the study. Triangulation involves cross-referencing different data sources, different theories, and methodologies as well as checking ones results with other researchers (Tellis 1997). While this is important in other research methods, it is essential in case studies in order to ensure validity when no correlation coefficients or other statistically validating tests are given. Furthermore, triangulation ensures that the researcher is certain about their conclusions.

2.4 The Case Study at Hand

One's case study must be tailored to the desired outcome of the study and also the shortcomings must be well-understood before undergoing the research. Because this thesis research has multiple objectives, it makes the most sense to use multiple research methods. Indeed, in order to answer the research question: how do the U.S./Chile and EU/Chile FTA agreements differ, a descriptive case study must be undertaken. The design of this case study simply entails listing various differences between the two agreements in terms of the agreements as a whole. Furthermore, several questions are asked of each agreement which will allow for a more meaningful comparison of the two agreements:

- Which sections are included? (Cooperation, SPS, investment, market access, etc.)
- How many tariff schedules exist?
- How are different goods "bundled"?
- What is the phase-out period for each good? Is it back loaded?

- How many products or product types are excluded?
- What percentage of goods is immediately liberalized?

To determine why the two agreements differ, it is much more fruitful to undertake a method of difference approach wherein the differences in specific product outcomes between the two agreements may be attributed to differences between the environments of the U.S. and the EU at the time of the negotiations. In this case, the questions asked about each of the selected products in each agreement are focused on the three theoretical causal factors—market conditions, negotiator beliefs/strategies and domestic politics and institutions. Additionally, to check for causality outside of Odell's framework, other questions are asked based on issues identified in the literature as important to negotiated outcomes.

Market Conditions:

- What were the market conditions for each good? (Production, consumption, import, export, etc.)
- What were the market alternatives for each good? (i.e. was there an alternate market that could be entered)
- For each good, were the producers export-oriented or import-competing?
- Was there domestic potential to become more of an exporter for a particular good?
- What was the level of domestic protection for each good?
- What were previous tariff levels for the sensitive agricultural goods?

Domestic Politics and Institutions:

- Were the constituents in favor of an agreement?
- To what extent did dissidents let themselves be heard or to what extent were dissidents fears considered?

- How much did producers work together with each government and other organizations?
- Which coalitions were formed (both domestically and internationally)?
- What was the relationship between important constituents or groups and the negotiators?

Negotiator beliefs/strategies:

- What was the overall strategy in the negotiations?
- In order to implement the overall strategy, what tactics were used?
- In the strategic spectrum, were the negotiations more towards value claiming or value creating (offensive or defensive)?
- What did each side know about the position of the negotiating partner and how did this knowledge affect the negotiator's actions?
- How aware were the negotiators of the other side's relative market conditions or of the domestic political situation?
- How much discretion did the negotiator have independent of higher authority?

Miscellaneous:

- Can any of these questions be answered differently from the Chilean perspective with regards to each agreement?
- What non-domestic challenges presented themselves in the negotiations, particularly other bilateral relations?
- To what degree were pre-negotiations limiting on the actual negotiations?
- Were linkages to other agreements and relations made?
- Was there evidence that relative power influenced the negotiations?

All of these questions are answered to help better understand our unit of analysis, namely, the negotiated outcome. The method of difference approach would suggest that differences in the

outcomes are a result of differences in the causal factors, hence the importance of answering each question for the U.S. and the EU agreement individually and then comparing the two answers. If the answers to the questions asked differ, but the outcome is the same for each agreement, then it would not make sense that the topic in question had anything to do with the outcome. On the other hand, if the answers differ and the outcomes differ, it may be true that the difference is due to the differences in the situations which can be revealed by answering the above questions.

The method of difference case study is not enough to fully assign causal validity and as such, a more in-depth process-tracing case study must be conducted for each good. This research method is essentially just a "method of within-case analysis to evaluate causal processes" which "attempts to uncover the micro foundations of individual behavior that connect hypothetical cases and outcomes and to reduce the difficulties associated with unobserved contextual variables" (Falleti 2006, 1). Process-tracing is used in chapter 4 to assess how individual behavior was affected by hypothetical causes and the degree to which these causes affected negotiated outcomes versus other possible explanations. The use of process tracing combined with the method of difference approach helps to establish the validity of the results.

CHAPTER 3: LEADING THEORIES AND FRAMEWORKS IN ECONOMIC NEGOTIATIONS

3.1 Brief Introduction to Negotiation Theory

There are various frameworks and viewpoints with which to study economic negotiations. The main contribution overtime has been to combine economic and political science approaches in the study of international economic negotiations as they are both viewed as relevant to analysis. Indeed, studies such as those conducted by Odell (2001) and the Institute for International Economics (Devereaux, Lawrence and Watkins 2006) show that negotiations are not solely the product of economic theory and its associated recommendations. Neoclassical economics insists that in the absence of market distortions and transaction costs, free trade is welfare maximizing as it allows countries to move to their areas of comparative advantages leading to lower costs of production and lower prices for the consumers. The problem with this of course is that international markets are distorted and transaction costs do exist, and as such, "in the international trade arena, where no supervening authority exists to enforce agreements and imperfect market conditions are likely to prevail, the scope for negotiation is especially significant" (Neugeborn 2000, 308). Economic negotiation studies must therefore not only include the viewpoint of economic theory, but they must also consider negotiation theory. This combined approach is referred to throughout this thesis as Economic Negotiation Theory (ENT). This chapter goes into greater detail about what exactly is included in ENT in terms of guiding theoretical axioms, the dominant theoretical contributions from various schools of thought in negotiation theory, tools used for studying economic negotiations in the context of this theoretical framework, and lastly there will be a discussion regarding Odell's contribution to ENT as it is the foundation for much of the theoretical testing undertaken in this thesis.

3.1.1 Basic Axioms in the Theoretical Framework

Because the focus of this thesis will relate to ENT, it is important to first identify the axioms which will be the basis of a greater theoretical framework used throughout the analysis. Essentially, there are five main axioms pulled from economic theory and negotiation theory which will guide the analysis. These axioms are provided from the theoretical literature and can be seen as the basic truths or assumptions from which further theoretical insights can be inferred or drawn upon.

The first axiom is pulled from economic, and more specifically, trade theory. This axiom holds that trade liberalization on the part of everyone is better from an economic net welfare perspective. This axiom is among the most important in economic literature as the mere existence of this truth precipitates the need for further work on the part of nations to ensure movement towards this welfare enhancing state of being—i.e. the proliferation of free trade agreements whether on the multilateral, bilateral, or corporate level[4]. Essentially, this axiom holds that free trade is net welfare maximizing as it allows countries to capitalize on their areas of comparative advantage. Should trade be completely free among nations, specialization will take place moving production to areas where the relative costs are lower. This would allow for the most efficient producers to survive and get the most income for their work due to their lower relative costs and their ability to capitalize on increasing economies of size and scale. Furthermore, consumers benefit because they are able to obtain goods at the cheapest price because of lower costs of production on the part of the producers (Neugeborn 2000).

The main problem with this assumption is that there are often other forces which keep completely free trade from being a possibility, which leads to the second axiom. This axiom

[4]Corporate level trade agreements generally refer to trade agreements between multinational corporations (MNCs) and countries all over the world.

basically states that the pursuit of complete trade liberalization may not necessarily be in the best interest of a politician or government because in order for trade liberalization to be welfare enhancing, all parties must drop trade barriers and domestic protection at the same time. If all parties do not drop trade barriers, then the one liberalizing trade will find it more difficult to compete with the protected sector. Nevertheless, domestic political concerns may prolong the need for protection, such as sensitive or new domestic industries, food security concerns, rural development concerns, or other issues discussed in more detail in annex 2. In their book regarding international economic negotiation, Kremenyuk and Sjöstedt insist that this is where the overlap really occurs between economic and political theories. Furthermore, this overlap "produces a highly specific type of integrative decision making where actors in the process seek two sets of different, though not always contradictory, goals: to maximize their direct profit from an economic deal and, in parallel, to coordinate it with national power interests that may either gain or lose from that profit" (Kremenyuk and Sjöstedt 2000, 343). While this axiom may seem at first contradictory to the first axiom, this is not the case; indeed, both considerations influence actors and outcomes within a given negotiation.

The third generally accepted principle within this theoretical framework has its basis in both economic and negotiation theory: a negotiator will decide upon and execute the strategy that they think is best to achieve their party's particular goals vis-a-vis its expectations of how the other team will react—in other words, the negotiator will behave rationally. The concept of rationality or bounded rationality is a very important assumption in the political economy realm; without this assumption, it would be impossible to determine why someone acted as they did or how they could possibly act in the future. Moreover, a government would not trust the economy

or political position of their nation to someone who acts irrationally (Kremenyuk, Sjöstedt and Zartman, 2000, Ch. 1).

The next two axioms deal with the outcome of negotiations. The fourth axiom states that people will always negotiate an outcome that is better than a non-outcome. This is apparent because if they did not negotiate something better than a non-agreement, then they would not accept that negotiated outcome. This insinuates of course that the BATNA is reasonably well known by the parties. Similarly, the fifth axiom holds that everything is reciprocal. If one side is demanding concessions in one area, then the other side must also get concessions in that area or they may trade that concession in a different but preferably equivalent area. Simply put, "since the parties consider themselves equal and look for an equal outcome, they expect process equality or a requirement for such equality, in other words, that concessions be reciprocated" (Kremenyuk, Sjöstedt and Zartman, 2000, 22). This goes back to the rationality assumption of course: a negotiator would not allow someone a concession without also getting a concession for themselves.

These five axioms will remain as guiding principles throughout the study. They will help to develop further assumptions and will also be the basis of many current theoretical assertions within ENT, even if they are not specifically mentioned again. In any discussion of actors and their actions, it will always be the case that the actors are assumed to act rationally. In economic discussions, it is the basic premise that free trade is welfare maximizing with the added premise that this may not be pursued due to other pressures. Reciprocity and the BATNA will be discussed throughout and are considered to be very important concepts in ENT.

3.1.2 A Brief Assessment of Existing Theories

As mentioned in chapter 2, negotiation theories can be categorized into three main frameworks or paradigms: the systemic or international framework, the domestic approach, and a

mixed approach which pulls theory from the first two frameworks in its analyses. While all three approaches have some differences in their theoretical contributions, the largest difference between the three frameworks is the unit of analysis. Within the systemic framework, the unit of analysis is typically macro variables which affect outcomes: economic and political power being the main theoretical propositions but also such things as economic and systemic interdependence, etc. The domestic approach typically looks to domestic institutions and actors with particular attention paid to negotiators for causality. The last framework combines the two approaches and looks at macro variables, institutions including the negotiation process, as well as actors as the units of analysis.

The main contribution of the systemic framework is often referred to as "the structural explanation" wherein the relative position of each party at the outset of the negotiation, as well as their ability to use this power, is the main factor leading to outcomes (Zartman 1987). This assertion is made by Sjöstedt where he insists that his case studies prove that power is continually shown to be an important determinant of the outcome (Sjöstedt 2000). Nevertheless, there are also times when it is found to be a less important indicator for outcomes. Indeed, Odell contends that for weaker states "gains and losses vary with how they negotiate, as well as with the power imbalance, and paradoxically small size even confers a few advantages" (Odell 2010, 545). His thesis is not that power has nothing to do with outcomes but simply that it is possible to achieve more balanced outcomes even when negotiating from weakness.

In terms of the contributions from the domestic arena, the main contributions deal with how various factors affect negotiations and the negotiators themselves. Particularly important is the negotiating behavior, or moves, used by negotiators. While there are different terms used, it is generally accepted that there are two strategic poles within negotiation: a situation wherein the

negotiator tries to claim as much value as possible, and a situation wherein a negotiator attempts to create as much value as possible. Sometimes this is referred to as a distributive strategy versus an integrative strategy, respectively, but most agree that negotiations usually involve some mixture of the two approaches. The degree to which one strategy is used over another has been studied in fairly great detail. One source contends that "the extent to which value can be created and claimed in trade negotiations is strongly influenced by how the issue agenda is constructed" (Devereaux, Lawrence and Watkins 2006, 22). More comprehensive agendas provide greater opportunity for value creation than do narrower ones. This theoretical insight continues to be important in the study of negotiations and will be included in the analytical component of this thesis.

Indeed, there are a great deal of things which have been theorized to affect negotiator behavior aside from the agenda and the negotiation process. One, posited from the domestic framework, is the degree to which a negotiator must answer back to higher level politicians or constituents. Helen Milner, Peter Evans and Robert Putnam, among others, insist that there is a two level game wherein negotiators have to bargain both at the internal level with constituents and their own governments, as well as externally with other nations. Because of this so-called "two-level game", negotiators are somewhat constrained in the actions that they are able to take in negotiations. They cannot make a deal which will not be accepted domestically, nor can they often get everything that their constituencies desire due to constraints on the other negotiator's side domestically. These pressures are theorized to lead to certain behaviors on the part of the negotiators. Negotiators may expect groups from each side to work together, they may try to create linkages on issues or agreements, they may use trades from one area to another to appease their most sensitive sectors, or they may negotiate largely in secret (Evans, Jacobson and

Putnam1993). Regardless of what actions are taken, this is presented by the domestic approach to be an important determinant of the outcome.

The mixed approach views economic negotiations from the perspective of the negotiation table like the domestic approach, but it also considers that more than just domestic politics and negotiation strategies affect the negotiated outcomes. For example, Odell insists that "when the market in question is structured by multilateral producers who have stakes invested in the target country, the credibility of threats by their home government and hence its gains from offensive claiming will be lower on average" (Odell 2000, 184). This takes into account the other country's situation as it relates to one's own country's negotiation strategy. This theoretical framework, referred to as ENT, while deeply seated in the domestic diplomacy literature, provides a more comprehensive view of negotiations that can be tested and critically appraised and can include theoretical contributions to the domestic and international approaches in the study of negotiations.

3.2 Theoretical Tools in ENT

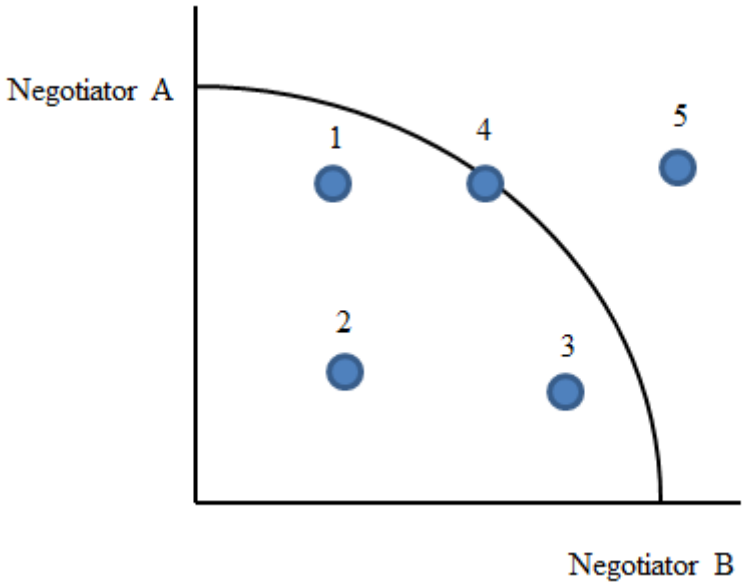
As indicated in previous sections, ENT is very diverse in terms of its theoretical propositions. Most analysts use a similar "tool kit" however when studying ENT. These tools help analysts to focus on different aspects of a negotiation in order to understand not only the outcomes but also what may have led to those outcomes. Two of the tools are largely helpful in visualizing the negotiation situation: the possibility frontier and a negotiation process model. The other two tools are fundamental in understanding the positions of the negotiators and why they acted as they did: BATNA and strategic analysis.

3.2.1 The Possibility Frontier

The possibility frontier is a familiar concept in economics and when referring to the "production possibility frontier" it is generally accepted that any output on the frontier uses the

factors of production efficiently. Similarly, in ENT, a negotiated outcome which is on the frontier is assumed to be an efficient outcome between two bargaining powers. Efficiency for this frontier simply indicates that both sides were able to bargain effectively to achieve their desired objective given what was possible to achieve. An agreement, be it efficient or not, always occurs in the area under the curve or touching the curve which is known as the zone of agreement shown by figure 3.1.

Figure 3.1: The Negotiation Possibility Frontier



Modified from: Odell, John S., Negotiating the World Economy, Ithaca, Cornell University Press, 2000

The origin of the graphic is the resistance point with which both sides work from in order to create and claim as much value as possible. The two axes represent the most preferable outcome for each party: the vertical axis refers to a set of ideal outcomes for negotiator A, whereas the horizontal axis refers to a set of ideal outcomes for negotiator B. In a negotiation between A and B, anywhere on the curve is efficient and indeed, point 4 is just one of many possible optimal outcomes. Points 1, 2 and 3 are better than no agreement at all because they are

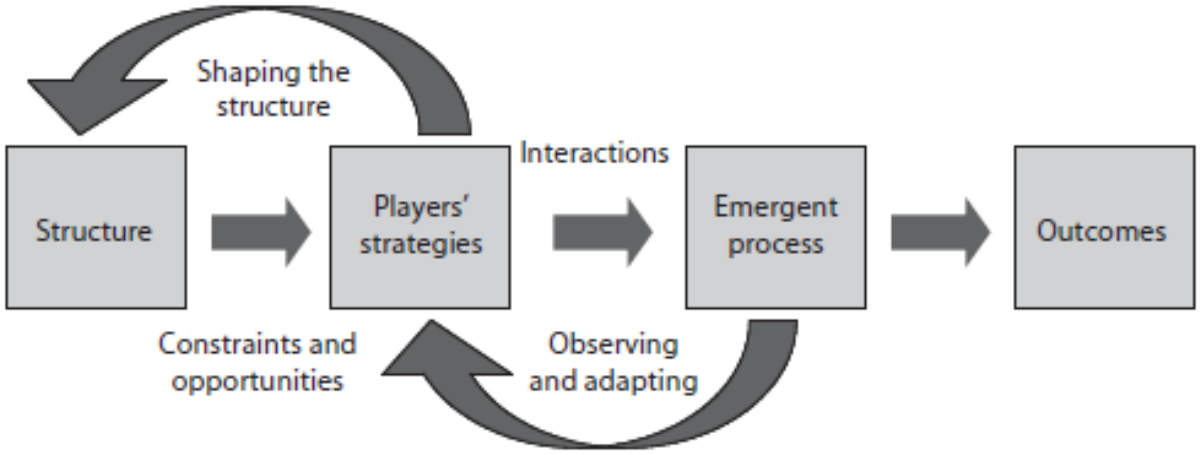
all beyond the origin; however, these agreements could all be more efficient, meaning that each side could have achieved more of what they wanted in the negotiations. Also interesting about these three points is that a certain amount of value can be given to each of the points. Point 1 for example, is more in favor of what negotiator A was hoping for whereas point 3 is more in favor of negotiator B. Point 2 could arguably be equally beneficial for both negotiators, but could be much more efficient if both sides worked to create value and get to point 4. Point 5 is not possible to reach for the two parties because of negotiation restraints or limits (Odell 2000, Ch. 2).

In terms of analysis, it is often hard to know what is "on the frontier" because access to information is often incomplete, a negotiator may not fully indicate their objective or an analyst's imagination may be limited in terms of what was or is possible. Indeed, much of the difference between point 2 and point 4 must be made through innovation on the part of both parties. This is where the value creation part of negotiation really comes into play. The difference between what each side in an agreement is leaning towards (point 1 versus point 3 for example) is the value claiming aspect of negotiations wherein the parties are simply dividing an already available 'pie' (Devereaux, Lawrence and Watkins 2006, Ch. 2). As in economic study, this theoretical visualization tool is of course all relative. The efficient frontier is made up of the "best" already negotiated agreements. The only way one would be able to tell if something is inefficient is to have an example of something that is indeed more efficient to compare it to such as a negotiated outcome for a particular good which met both negotiators' objectives better than the good under question. Because this tool allows for comparison, it is a very useful tool for a comparative study. Not only can two FTAs be compared but also each outcome for each good can be compared.

3.2.2 Negotiation Process Model

Another fairly useful visualization tool in negotiation analysis is a negotiation process model. While most analysts in ENT and domestic negotiation theory look at the process in some way or form, a useful graphic for understanding this theoretical tool is presented by the Institute for International Economics (figure 3.2). Like the model described above by ENT and domestic negotiation theory, everything ultimately affects the negotiators strategies which then affect the outcomes. While this model does not tell the whole story, it is a useful tool for visualizing how the structure of negotiations affects the negotiated outcomes. An understanding of the negotiation process, the constraints and opportunities as well as the interactions can be very useful both in understanding the negotiation process as well as identifying possible causal factors.

Figure 3.2: The "Structure-Strategy-Process-Outcomes Model"



Source: Devereaux, et al., Case Studies in U.S. Trade Negotiations, Vol. 1: Making the Rules, Institute for International Economics, Washington, DC, September 2006, p. 19

3.2.3 Best Alternative To a Negotiated Agreement (BATNA)

The BATNA is one of the most important parts of ENT and indeed an essential tool for understanding negotiations. The reason that two parties enter into a negotiation is because there

is a potential to create something better than what is currently the status quo. Understanding what the status quo entails is the starting point of negotiations themselves. Odell insists that someone's BATNA essentially is much of their bargaining power in negotiations (Odell 2000). On the negotiation frontier, it can be thought of as the resistance point which is represented by the origin since accepting an outcome that is the same as the BATNA is the same as having no negotiated outcome at all. This BATNA can be thought of from many different aspects as well: economic BATNA, political BATNA, security BATNA, among others. Furthermore, it is also a relative concept and can be compared as long as the researcher understands the relative value of the BATNA for each side. Sometimes comparing the BATNA can be somewhat subjective, but if the BATNAs are understood from both sides and from multiple angles including the perceptions each side has of the other side's BATNA in relation to their own, it will be easier to understand why a negotiator acted as they did or used a strategy that they used. Additionally, this BATNA can be derived from economic data, interviews, news reports, and other sources as much of this information is available to all sides and often apparent in negotiations although sometimes it is beneficial to not expose one's true BATNA to the other side (Odell 2000).

3.2.4 Strategies and Tactics in Negotiations

In ENT literature, most of the causal variables relate to how they affect the negotiation strategy and tactics. As such, it is important to know what a strategy is and what that entails. Odell sums up the definition of strategy by describing it as a "set of behaviors that are observable at least in principle and associated with a plan to achieve some objective through bargaining" (Odell 2002, 40). The sets of behaviors that he mentions are more commonly referred to as tactics or the "moves" that each player makes. Various theorists agree that there are two main types of strategies: distributive or value claiming and integrative or value-creating. Distributive and integrative strategies each have a set of associated tactics. Dur and Mateo assert that hard

tactics, or those that are seen as more distributive, are only credible for powerful actors (Dur and Mateo 2008), whereas Odell argues that distributive tactics can be used by less powerful states if they have a much better alternative to a negotiated agreement than does the powerful state (Odell 2002). Table 3.1 summarizes the tactics that both have determined for the two polar strategies as presented by Dur, Mateo and Odell.

Table 3.1: Distributive versus Integrative Tactics

Hard/Distributive Tactics	Soft/Integrative Tactics
Strong, public commitment of not giving in	Signaling flexibility
High opening demand	Using conciliatory statements
Firmness rather than flexibility	Praising the other side
Criticize the other side	Seeking partners for compromise
Creation of a defensive coalition	Side payments
Using a threat (can be a threat of veto)	Promote goals outside of scope of current negotiations
Failure to cite the other sides well-being	
Concealing information about true priorities	Open desire to make both sides better off
Slow or delayed concessions	
Manipulating others beliefs	Invite others to share their opinions
Worsening others alternatives while improving one's own alternatives	Not ruling out concessions for the either side
Tactical retreat	Treat all partial agreements as provisional until issues are settled
Offensive or defensive claiming	

Sources: Odell, J. S., Creating Data on International Negotiation Strategies, Alternatives and Outcomes, International Negotiation, 7: 39-52, 2002 and Dur, A. and G. Mateo, Bargaining Power and Negotiation Tactics: Negotiations on the E.U.'s Financial Perspective, 2007-2013.

Most negotiators do not simply stick to an integrative or distributive strategy. Odell actually visualizes these two polar strategies on a spectrum. In his view, "the actual strategy spectrum ranges from pure value claiming, to claiming diluted by minor integrative moves, to a balanced mix, to mostly value-creative tactics diluted by mild claiming moves" (Odell 2000, 35). Furthermore, a negotiator may begin a negotiation on the integrative side of the spectrum and then move towards the distributive side as the talks progress. Likewise, there can be a continual mixing of strategies. Furthermore, there are tactics that may be used in any strategy such as issue

linkage. Whether tactics claim or create value depend greatly on how they are used. One thing to note is that Odell argues that integrative strategies typically involve three main phases. Initially, the two groups get together to explore the problem at hand followed with a joint search for potential solutions. The last phase includes working together to determine the best solution among alternatives (Odell 2002).

As mentioned in the definition of strategy by Odell, much of what determines a player's strategy are the overall objectives that they face for the negotiations. These objectives can be economic, relational, or domestic political (Odell 2000, 25). Furthermore, the importance of each area will differ. In an economic negotiation, economics and domestic politics may be the only relevant objectives. Likewise, in authoritarian regimes, domestic politics may not matter at all but the relative impact on certain supporters of the regime may be more important. The next section of this thesis will go into more detail about what Odell theorizes to affect strategies and tactics in negotiations and thus outcomes.

3.3 Odell's Theory in More Detail

While various researchers have given various reasons for negotiators using alternative strategies and tactics and have posited multiple factors to be related directly to the outcomes, Odell's theory is one of the more concise and testable theories put forward on the topic. His theory has been developed over several years using a very diverse set of case studies and case study methods in order to identify causal factors for outcomes in economic negotiations. Indeed, his research suggests that market conditions, negotiator beliefs and domestic politics influence strategies and outcomes in economic negotiations. He lays out more specifically how these independent variables affect strategies and tactics in negotiations and thus outcomes as observed in his case studies:

Market conditions:

- A worse relevant market alternative translates to a lower resistance point leading to softer claiming tactics and thus smaller gains.
- Threats made must be credible; countries have to be aware of the situation in their own as well as the other country. Threats that are not credible can worsen a party's position.

Negotiator beliefs:

- Negotiators choose their strategies based on how they believe the other negotiator will respond to and exploit a given strategy.
- "If negotiators are subject, like the rest of us, to cognitive judgment biases, then gains and losses from a strategy will vary directly with the extent to which the negotiator uses tactics designed to compensate for his own biases"(Odell 2000, 184).

Domestic politics and institutions:

- Constituents must be in general agreement or understanding with whatever the negotiators try to do otherwise the negotiators lose credibility.
- "As constituents in a target country raise the political cost of compliance for their government, gains from the offensive claiming strategy will diminish" (Odell 2000, 184).
- If the constituents are on board, it will be easier to ratify an agreement but some discretion can be useful.

Of course, these are not the only aspects of the independent variables that affect the negotiating strategy or the outcomes. Indeed, others (including other works by Odell) have posited several things within these categories as well; for example, that a better economic condition to begin with will mean less need for a negotiated agreement, and thus value-creation strategies from the other party would be more productive (Odell 2002). The main theoretical

contribution—that market conditions, negotiator beliefs and domestic politics affect the negotiating strategy—can be tested by the use of process tracing to look at what did affect negotiator behavior and thus outcomes. If the causal factors lie outside the scope of Odell's hypothetical independent variables, then it may be necessary to propose other causal factors. Furthermore, the process tracing process will allow improved specification of Odell's theoretical proposition as it can include specific case examples of what impact a specific market condition for example had on the negotiator and negotiated outcome.

Any theory has a variety of strengths and limitations. A strength of Odell's theory is that the hypothetical independent variables are quite clear. Market conditions can be clearly understood by economic indicators: relative production and commerce volumes and values, trade surpluses and shortages, industry concentration, the labor/capital ratio and the share of sectoral employment to total employment. Negotiator beliefs mainly deal with what the negotiator understands or believes about his or her BATNA, the other player's BATNA and which strategy they should use in order to maximize their side's gains. The Chilean negotiators for example knew that they would benefit most from negotiating agriculture along with market access. However, the U.S. ensured that it was negotiated separately as the U.S. perceived some benefit of negotiating it separately (U.S. Interview). Lastly, the domestic/political variable can include such things as the propensity of a producer or consumer group to lobby government, the amount of involvement these groups are allowed in negotiations, the "macro" variables such as unemployment as well as the jobs gained or lost by a certain sector due to trade. Other factors likely having an influence in this area are the attitudes of constituents towards free trade at the time of negotiations and the amount of freedom the executive has to negotiate trade agreements. For instance, the presence of Trade Promotion Authority (TPA) or some other political mandate

making negotiating FTAs more sanctioned can be essential in negotiations (GAO 2007). If these variables are known, inference on their impact on negotiations and outcomes can be performed.

Conversely, often the theory is not specific enough to answer the question of how a causal factor affects a negotiator and thus the outcome. While there have been a few specific examples of how market conditions, negotiator beliefs and domestic politics influence negotiator behavior and outcomes, these propositions are far from complete and unlikely to be the case every time. Case examples have shown that negotiators have used value-claiming tactics when they should have used value-creating tactics (Conceicao-Heldt 2006). Odell might suggest that this occurrence is due to negotiator bias, but as a researcher, it is often hard to know what the negotiator believes and what biases he or she may have. Because of the subjective nature of the negotiator belief category, it will be more difficult to pin down the degree to which this affects outcomes.

3.4 Theory Conclusions

In sum, much of the theoretical contributions in economic and negotiation theory will help guide the case study analysis for this thesis. The theoretical axioms and theoretical propositions will provide a basic structure to study the negotiated FTAs at hand. More importantly, theoretical testing will be done on the hypothetical independent variables presented by Odell in ENT: market conditions, negotiator beliefs, and domestic politics. For the most part, there are ways to measure these independent variables although there is some difficulty in measuring negotiator beliefs.

CHAPTER 4: CASE STUDIES OF THE U.S./CHILE AND EU/CHILE FTAS

This chapter will provide two interrelated case studies regarding the U.S./Chile and EU/Chile FTAs: a descriptive case study determining how the two agreements are different and a structured, focused comparative case study to test Odell's Economic Negotiation Theory regarding why the two agreements are different for selected sensitive agricultural products. The "universe" of this case study concerns the negotiated market access outcomes within which the tariff schedules, exclusions, and institutional arrangements are the dependent variables. The unit of analysis for the comparative study is the negotiated outcomes for each of the selected products. The independent variables to be tested include market conditions, domestic politics, and negotiator beliefs. The independent variables will be constant for Chile as the same market conditions, negotiators and domestic politics existed for both agreements although negotiators in Chile clearly had to change their approach when faced with a different approach for each good and agreement. Each comparative case study involves answering a set of questions for each FTA regarding the market conditions, political setting and negotiator behaviors for each product. Differences in relative outcomes will then be discussed for each product.

4.1 The Descriptive Case Study

Throughout this descriptive case study, questions are posed and answered for each agreement followed by an assessment of how they differ. This part of the study must be undertaken before causality can be determined. The assessment includes information on what exactly is included in each of the FTAs in terms of an overview as well as how the market access component differs for each agreement.

4.1.1 Sections in FTAs

The U.S. agreement is very much oriented towards market access for goods whereas the EU agreement provides much more scope for cooperation in areas other than market access.

Aside from chapters 18 and 19 (labor and environment respectively) in the US agreement, the chapters generally refer to traditional trade issues including national treatment, rules of origin (ROO), sanitary and phytosanitary standards (SPS), technical barriers to trade (TBT), trade in services, intellectual property (IP) and dispute settlement (table 4.1)[5]. Moreover, the U.S. agreement only calls for additional cooperation in the areas of labor and the environment.

[5]All contents of the table are derived from the texts of the agreement which can be found at sice.oas.org

Table 4.1: U.S./Chile and EU/Chile FTA Sections

Chapter	United States	Part/Title	European Union
1	Initial provisions	Part I	General and institutional provisions
2	General definitions	Title I	Nature and scope of the agreement
3	National treatment and market access for goods	Title II	Institutional framework
4	Rules of origin and origin procedures	Part II	Political dialogue
5	Customs administration	Part III	Cooperation
6	Sanitary and phytosanitary measures	Title I	Economic cooperation
7	Technical barriers to trade	Title II	Science, technology and information society
8	Trade remedies	Title III	Culture, education and audio-visual
9	Government procurement	Title IV	State reform and public administration
10	Investment	Title V	Social cooperation
11	Cross-border trade in services	Title VI	Other cooperation areas
12	Financial services	Title VII	General provisions
13	Telecommunications	Part IV	Trade and trade-related matters
14	Temporary entry for business persons	Title I	General provisions
15	Electronic commerce	Title II	Free movement of goods
16	Competition policy, designated monopolies, and state enterprises	Title III	Trade in services and establishment
17	Intellectual property rights	Title IV	Government procurement
18	Labor	Title V	Current payments and capital movements
19	Environment	Title VI	Intellectual property rights
20	Transparency	Title VII	Competition
21	Administration of the agreement	Title VIII	Dispute settlement
22	Dispute settlement	Title IX	Transparency
23	Exceptions	Title X	Specific tasks in trade matters of the bodies established under this agreement
24	Final provisions	Title XI	Exceptions in the area of trade
		Part V	Final provisions

The U.S./Chile agreement also includes a special agricultural safeguard clause that is triggered by price rather than volume. Agricultural safeguards are mechanisms to deal with a surge of imports after lowering tariffs; the U.S. and Chile saw a surge of imports to be less of a problem than lower priced imports however and so instated a safeguard such that a party may impose an additional duty for goods that enter the partner's territory at a level below a set target price in the FTA agricultural safeguards list. The import price is determined by the CIF import price of the goods entering Chile and on the basis of the FOB import price for goods entering the U.S.[6] The trigger prices reflect a historic import value for the products and may be updated periodically by mutual agreement. Any additional duties charged will not be allowed to go above Most Favored Nation (MFN) rates.

The EU/Chile agreement is generally more political in nature. It includes a political dialogue that includes objectives such as further development and defense of democratic values, respect for human rights, etc. Moreover, the agreement includes an entire section (Part III) on cooperation with seven titles dealing with economic, scientific, cultural, social and governmental cooperation. In terms of the trade related matters (Part IV), there are titles for customs duties, industrial products, fishery products, as well as agricultural and processed products. The EU/Chile FTA also includes additional agreements on trade in wines and spirits and annexes regarding trade in spirits drinks and aromatized drinks. These "special" agreements lay the foundation for protection of geographical indicators and intellectual property for trade of wines and spirits. One of the possible reasons for the political nature of the agreement is the EU's emphasis on political partnership with developing countries combined with the fact that Chile and the EU already had an association agreement going into the FTA.

[6] CIF means Cost, Insurance and Freight and FOB means Free On Board. Both are terms to describe the price plus some costs.

The safeguard mechanism for the EU/Chile FTA is contained in two parts. The first part is a safeguard and shortage clause which is a common safeguard clause that results in simply re-affirming both parties' commitment to the multilateral framework for safeguards provided by the WTO. The second part is a special safeguard clause for agricultural products which is referred to as the emergency clause that allows for a halt in imports in the case of a surge of imports or otherwise "harmful" trading activity (Rudloff and Simons 2004).

An important component for both agreements was mutual recognition of standards and SPS measures. The U.S./Chile agreement included a mutual agreement on grading standards for beef, which negotiators indicated was a very big issue in agricultural trade between Chile and the U.S. (U.S. Interview). Annex 3.17 in the U.S./Chile FTA specifically lays out standards for grading beef in the U.S. and Chile, and requires that there be mutual recognition of the grading standards between the two countries. Moreover, trade of beef between the two entities should carry labels indicative of the equivalent grading standard in the importing country. Similarly, the EU/Chile agreement includes a separate agreement on SPS measures for agricultural products and animal welfare, which both reaffirms the two parties' commitment to WTO rules concerning SPS matters and extends it by calling for a committee to work on transparency and trade issues that may arise due to SPS import requirements. Moreover, the EU agreement includes a safeguard clause regarding SPS measures wherein "domestic measures" may be taken "to control any cause likely to constitute a serious hazard to human, animal and plant health" (EU FTA, Annex 4, article 14).

Both agreements include typical trade issues: SPS, TBT, IP, ROO, trade in goods and services, dispute settlement and escape clauses. Aside from the typical issues addressed in FTAs, both agreements also include institutional arrangements that were important to each side. The

U.S. was able to harmonize standards specifically for beef and to implement a more useful safeguard mechanism, meanwhile the EU was able to institutionalize GI recognition for wines and spirits while strengthening their political partnership with Chile through shared commitments and other institutional reforms.

4.1.2 Market Liberalization Results

The previous section has shown that the two agreements have various similarities and differences in terms of the general components of each FTA; likewise, there are various similarities and differences with regards to how each country approaches the issue of market access and how liberalization actually occurs within the framework of the FTA. Comparatively, the U.S./Chile FTA has longer phase out periods for its most protected products than the EU; however 100% of products become free at the end of that time period, whereas the EU maintains exclusions resulting in less than 100% free trade (table 4.2). Chile eliminates fewer tariffs immediately compared to the U.S. in the U.S./Chile agreement, but more than the EU in that agreement. TRQs are used for fewer product categories but more tariff lines in the EU than in the U.S., and more of these TRQs never expire, meaning that complete liberalization may never be reached for these products. Chile declared more TRQs in the EU agreement, although its use of TRQs is minimal compared to either of its trading partners.

Table 4.2: Market Liberalization Results of the U.S./Chile and EU/Chile FTAs

Chilean Free Trade Agreements				
	U.S.	EU	Chile-U.S.	Chile-EU
# of staging categories for tariff elimination	7	5	6	4
Longest phase-out period (years)	12	10	12	10
# of product categories affected by TRQs	20	17	4	5
Tariff lines affected by TRQs	217	285	10	33
% of tariff lines immediately liberalized	93	74	89	91
% of tariff lines that eventually become free	100*	93	100*	96

*Sugar is de-facto excluded, since both have a net-exporter clause.

Sources: Annexes 1 and 2 of the EU/Chile FTA and Annex 3 of the U.S./Chile FTA, accessed from sice.oas.org

The Chile/U.S. FTA has more staging categories for tariff reduction than does the EU/Chile FTA (table 4.2) although two of the staging categories allow for duty free imports upon implementation of the free trade agreement: category F allows goods that were previously free to continue to be free and category A eliminates all existing duties for over 60% of the tariff lines (see Appendix 2 for a complete list of the tariff elimination schedules). Alternatively, there are two tariff elimination staging categories which reach free trade by year 12: category E eliminates tariffs in 12 equal stages whereas schedule G is very back-loaded with no liberalization occurring until after the 5th year. The EU agreement does not feature any back-loading in tariff reduction whereas there are 5 schedules utilized by Chile, the U.S. or both that are back-loaded.

Both agreements also feature seasonal tariff schedules for fruits. The U.S. has seasonal schedules for avocados depending on if the date is between January 1st and September 30th versus much greater quantities from October 1st through December 31st. This is undoubtedly due to spring variety avocado's (mainly Hass) constituting the majority of production in California; additionally, these spring varieties face fierce competition from Mexican avocado imports. The EU negotiated alternate schedules for different fruits from Chile with as many as 8 different

tariff schedules for some pear varieties depending on the season. Other fruits such as citrus fruits have different schedules for the wintertime and the rest of the year. These time-dependent schedules make perfect sense considering that Chile has an opposite growing season from both the U.S. and the EU. Furthermore, the U.S. and EU negotiators both faced the pressure of wanting commerce during their lesser growing seasons versus protecting domestic fruit producers during their own seasons.

There were listings of a few additional products which were treated differently in each of the agreements. In the U.S. tariff elimination annex, peanuts and cotton have special treatment wherein the duties are removed evenly over 12 years. Additionally, there are seven different tariff reduction schedules for different varieties of wine. Moreover, there is a clause in the U.S. agreement wherein the U.S. allows preferential duty rates for imports of other agricultural goods so long as the value of imports do not exceed 50% of total imports for that particular tariff line or exceed a value of $110 million. If the value of imports does exceed these limits, the duty levels are subject to a tariff elimination reduction schedule of 4 years removed in four equal stages. If goods that are given free access to the U.S. exceed these limits, then they will have duties imposed upon them that are eliminated in 8 years in equal increments. The U.S. also has TRQs for non-agricultural goods such as tires, rubber, copper, and hotel or restaurant chinaware although they are not included in any of the analysis of this thesis. For Chile, there are also special provisions for wheat, wheat flour and vegetable oils in its agreement with the U.S. that eliminates the price bands and requires that the customs duty may not be above MFN. It also has a special provision for sugar wherein Chile will allow preferential access to U.S. sugar if they have a trade surplus in sugar and vice versa.

In the EU agreement, there are special classifications for some goods that indicate special duty reduction and generally grant exceptions for sensitive products (Appendix 3). Goods classified as "R" have a tariff concession of 50% of the basic customs duty. Those labeled "EP" have liberalization of the ad-valorem duty only maintaining the specific duty that is linked to the entry price. "SP" also signifies that liberalization only applies to the ad-valorem duty with maintenance of the specific duty which is used for many milk and sugar products. Little to no liberalization exists for those goods designated "PN" as these products are protected by the community. This group includes some GI goods like cheese which are specific to a particular region/location or production practice.

The two agreements differ greatly in terms of market liberalization. The EU/Chile FTA actually has several exclusions in agriculture: poultry, beef, pork, dairy, cereals, fish, wines and spirits (those covered by GI's), olive oil, sugar and sugar products, cocoa products and other special products such as vinegar, beans and mushrooms. The U.S./Chile FTA does not contain any exclusions although sugar is somewhat excluded for both countries because of the net-export clause included in the FTA which requires that each country to be a net exporter in order to obtain preferential treatment, a condition unlikely to be met by the U.S. or Chile. In the EU/Chile FTA, Chile excludes many of its agricultural products including wheat, some meats, oils, dairy and some fish.

4.1.3 TRQ Comparison

TRQs were significant components of the market access outcomes in the U.S. and EU FTAs with Chile. The actual market access outcomes of these TRQs depend on whether the quota is likely to be met by the trading partner. If the quota is not met, then the market access outcome of a TRQ is free trade; otherwise, rents occur as a country exports its goods at quota or at the over-quota rates (Herrmann, Kramb and Monnich 2001). Consequently, it is important to

understand if the quota was binding at the time of the negotiations and after implementation in order to understand the actual market access outcomes. Moreover, it is important to understand the degree to which over-quota duties are reduced over time; i.e. whether the over-quota duty reduction occurs evenly or if they are reduced in a back-loaded manner. Furthermore, as TRQs are used as a form of protection for many sensitive agricultural goods, the actual time period to free trade is a significant market access outcome. Tables 4.3 and 4.4 look at these aspects of the agricultural TRQs included in both agreements in order to gather a comparative understanding of the actual market access outcome.

Table 4.3: Summary of Agricultural TRQ Outcomes in the U.S./Chile FTA

	Time period (years)	Over-quota duty reduction	Quota binding in 2001?	Quota binding in 2003?	# of tariff lines affected
U.S./Chile FTA Agricultural TRQs with regards to imports from Chile into the U.S.					
Beef	4	even	no	no	6
Cheese	12	back-loaded	no	no	52
Milk powder	12	back-loaded	no	no	8
Butter	12	back-loaded	no	no	9
Condensed milk	12	back-loaded	no	yes	4
Other dairy products	12	back-loaded	no	no	46
Sugar	12	even	yes	no	47
Tobacco	12	even	no	no	7
Avocados[1]	12	back-loaded	no	yes	1
Processed artichokes[2]	12	even	no	no	1
Poultry	10	back-loaded	yes[3]	yes[3]	4
U.S./Chile FTA Agricultural TRQs with regards to imports from the U.S. into Chile					
Beef	4	even	no	no	6
Chicken and turkey	10	back-loaded	yes[4]	yes	27

[1] two seasonal quotas; the sum of exported avocados in 2003 was over the combined quota allowance however

[2] the quota quantity remains the same for 12 years

[3] the initial quota for poultry was 0 so any imports were over-quota

Sources: Annexes 1 and 2 of the EU/Chile FTA and Annex 3 of the U.S./Chile FTA, accessed from sice.oas.org and trade data accessed from uncomtrade.org

Table 4.4: Summary of Agricultural TRQ Outcomes in the EU/Chile FTA

		Time period (years)	Over-quota duty reduction	Quota binding in 2001?	Quota binding in 2003?	# of tariff lines affected
EU/Chile FTA Agricultural TRQs with regards to imports from Chile into the EU						
	Beef	N/A[1]	N/A[2]	no	unknown[3]	12
	Swine	N/A[1]	N/A[2]	no	yes	38
	Sheep and goats	N/A[1]	N/A[2]	yes	yes	27
	Poultry	N/A[1]	N/A[2]	yes	yes	62
	Cheese and curd	N/A[4,5]	N/A[2]	no	unknown[3]	50
	Garlic	4	even	no	no	1
	Cereals	N/A[4]	N/A[2]	yes	unknown[3]	37
	Mushrooms	10	even	unknown[3]	no	2
	Cherries	N/A[4]	N/A[2]	no	unknown[3]	1
	Sugar products	0, SP[6]	N/A[2]	no	no	14
	Hake	10	even	yes	yes	4
	Salmon	10	even	yes	yes	3
	Tuna	10	even	no	no	1
EU/Chile FTA Agricultural TRQs with regards to imports from the EU into Chile						
	Cheese and curd	N/A[4]	N/A[2]	no	no	12
	Oil	N/A[4]	N/A[2]	no	no	3
	Mackerel and Hake	10	even	no	no	5
	Salmon	10	even	no	no	8
	Tuna, Skipjack, etc.	N/A[7]	N/A[2]	no	no	5

[1] the quota quantity is increased by 10% each year but never completely eliminated
[2] the over-quota tariff is at MFN levels and is never decreased by this agreement
[3] the quantity of imports is not available
[4] the quota quantity is increased by 5% each year but never completely eliminated
[5] some cheeses do become free after 4 years, others do not including those with a "PN" designation
[6] the ad-valorem duty is eliminated upon implementation but the specific duty is maintained
[7] the quota never increases, but Chile gives a preferential customs duty of 1/3 of the MFN duty

Sources: Annexes 1 and 2 of the EU/Chile FTA and Annex 3 of the U.S./Chile FTA, accessed from sice.oas.org and trade data accessed from uncomtrade.org

It is clear from the two tables that the U.S. and the EU have different market access results from the use of the same instrument. In the U.S./Chile FTA, free trade is reached after a maximum time period of 12 years for all of the products covered by TRQs. Additionally, the

initial quota was not found to be binding for most of the products covered by the TRQs in the year 2001 when negotiations were in progress. Moreover the quota levels were not binding after implementation in 2003 for most products. Poultry was the exception but that was because the poultry industries in the U.S. and Chile were given a 3 year adjustment period where the quota level on the TRQs was zero, making any trade of poultry in excess of the first tier quota.

The TRQs in the EU/Chile FTA had two main characteristics: first, most of the products covered by TRQs never become free, and second, the reduction of the over-quota duty is even for those products that do become free. The EU/Chile FTA includes constant quota increases of 10 or 5 percent each year for most of the goods subject to TRQs without ever eliminating the quota resulting in exclusions for liberalization; nevertheless, at some point the quota is likely to be non-binding. The over-quota tariff charged for the excluded goods is the MFN rate and therefore only changes if the MFN rate changes. For those goods that do become free, the over-quota tariff applied is equal to the base tariff levels which are reduced evenly over the given time period. Most of the goods that do have eventual TRQ elimination are eliminated in 10 years indicative of the sensitivity of the goods subject to TRQs. Almost half of the quotas were binding for Chilean imports into the EU prior to the agreement and/or after the agreement was implemented. Four of the imported products covered by EU TRQs had no data regarding the quantity imported on the UN trade database and so it cannot be discerned whether or not the quota level was binding after FTA implementation.

Chile has much fewer TRQs than either of its trading partners, and those that it did have were generally not binding. Chile seemed to follow suit with the U.S. and the EU with regards to its treatment of TRQs. In the US/Chile FTA, both of its TRQs are identical to the TRQ for the same product for the U.S. Similarly, the Chilean TRQs for cheese, curd and the fisheries

products are exactly the same as the corresponding EU TRQs for these products. The only unique TRQ for Chile is for oils, although its initial quota level is very high meaning that it is unlikely to be binding.

4.2 Relative Assessment of the FTAs

The two agreements are clearly different both in terms of content and actual market access outcomes. Various studies have been conducted regarding the potential and realized economic impacts of the two agreements (see PLANISTAT-Luxembourg 2002, Rudloff and Simons 2004, FAS 2009, Harrison, Rutherford, and Tarr 1997). Less clear is how the two agreements differ from one another in terms of which side was able to attain a more favorable outcome and the reasons for it. In order to better understand these issues, this section begins with an assessment of the relative negotiated outcomes followed by assessments of the strategic goals of each side, including what each side would have preferred as an outcome; of the alternatives each party faced for a given product or institutional outcome[7]; and finally the process that occurred to get to the actual negotiated outcome. Data for this assessment comes from interviews, trade flow databases, and publications on the topic, both in terms of economic and political considerations. Based on an assessment of this data, the two agreements will be compared on the Pareto efficiency frontier as employed by Odell 2001 and Devereaux, Lawrence and Watkins 2006.

Various Chilean negotiators and industry stakeholders rank the U.S./Chile FTA as their most favorable FTA mainly due to the lack of exclusions (Chile interviews). The U.S. was also fairly favorable to the FTA due to its lack of exclusions, the removal of the price band system

[7]An institutional outcome can mean what a particular side wanted in terms of the rules of the game for the exchange of a particular good such as specific standard requirements or the way that liberalization is handled.

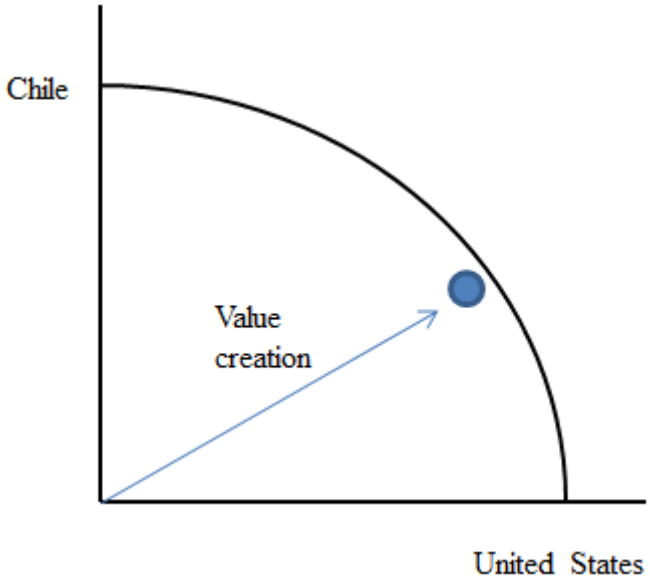
(PBS)[8] for wheat and the creative solutions found for difficult topics such as sugar and agricultural safeguards. Both sides believe that value was created in the agreement, and the explanations by the negotiators show the negotiations to be much more towards the value creation (integrative) end of the negotiations stratagem. Most U.S. opponents to the agreement even contend that the agreement works with a small open economy like Chile, although certain components of the agreement such as the sugar outcome would not be acceptable in other FTAs (USTR 2003). Chilean dissidents were a small although relatively loud minority with such groups as the wheat producers holding out on giving up the PBS as long as possible (Leight 2008). For the most part, freer trade was preferable to Chilean groups although wheat producers were not the only ones seeking additional protection; indeed, other agricultural sectors such as poultry and dairy were more difficult in negotiations although these groups were pleased that they were able to maintain some protection in the form of longer and more back-loaded tariff reduction schedules while at the same time ensuring a market for their products (Chilean interviews).

Based on the relative strategies as well as the negotiated outcomes, the U.S./Chile FTA would be estimated to be very close to the Pareto efficiency frontier although slightly skewed to the U.S. due to the U.S. victory in eliminating the PBS as illustrated in figure 4.1. The agreement would have had greater value for Chile had they been able to gain more access to the U.S. market for their agricultural products. From the U.S. perspective, the agreement was not perfect either as some groups were not happy about the outcomes on labor, SPS, and environmental concerns, although most groups were favorable to the market access outcomes contending that enough

[8] The PBS refers to the system applied to imports of wheat, sugar or oils into Chile, wherein if the price at the border does not fall in between two price bands, a tariff or a rebate is applied to make the price fall within the band. The PBS is discussed in more detail in Annexes 1 and 2 and in the following case studies.

protection was maintained for sensitive sectors while allowing for improved access to the Chilean market (USTR 2003).

Figure 4.1: Negotiated Outcome in the U.S./Chile FTA Depicted on the Frontier



In the agreement with the EU, Chile was successful in maintaining protection for their most sensitive products in agriculture, but they were not able to gain as much market access as they were in the U.S. agreement. In terms of maintaining protection, Chilean negotiators indicated that they were not concerned about losing the PBS like they were with the U.S.; however, as Chile prides itself on being an open economy more liberalization would have been a more favorable outcome. With regards to the limited market access given to Chile, EU negotiators indicated that they knew that Mexican negotiators had told Chilean negotiators to be pragmatic about the agreement[9], and although there would be a lot of exclusions, an agreement with exclusions was better than no agreement at all (EU Interview). In other areas besides tariff barriers, Chile was happy to have avoided more in-depth sections regarding SPS, labor and

[9]The EU encouraged Mexico to advise Chile since the EU had just finished negotiating with Mexico.

environmental issues as they were able to simply "cooperate" on these matters and adhere to existing agreements (Chile Interview). In wines, however, Chile lost in that they would have to change labeling of their wine products, but they gained in that they were able to secure a GI for Pisco[10]. Because Chile was able to avoid some institutional requirements, maintain protection for sensitive sectors and gain access to the EU market, the EU agreement was acceptable; nevertheless it was certainly not ideal especially in comparison to the U.S. agreement because they were not granted as much market access.

The EU saw Chile as being fairly non-threatening and their main goal was to address issues that Brazil wanted addressed in a potential MERCOSUR[11] agreement. Indeed, discussions regarding an FTA began with MERCOSUR, Chile and the EU but when it became obvious that an agreement with Chile would be a much easier path than an agreement among all three parties, the EU decided to negotiate the two agreements separately and try to create an agreement for Chile which would mirror issues that Brazil saw as important for a MERCOSUR agreement (EU Interview). For the EU, the speed of discussions was also important as the EU-Latin America summit was approaching and the EU wanted to finish the agreement before this summit for political reasons (EU Interview). Moreover, at the time of the agreement, the EU was just 15 members but that number was to grow soon. As such, the basic strategy with the EU was to address issues in the Chilean agreement that they wanted to address in an agreement with MERCOSUR, such as IP, ROO and GI, and to shape market access restrictions such that

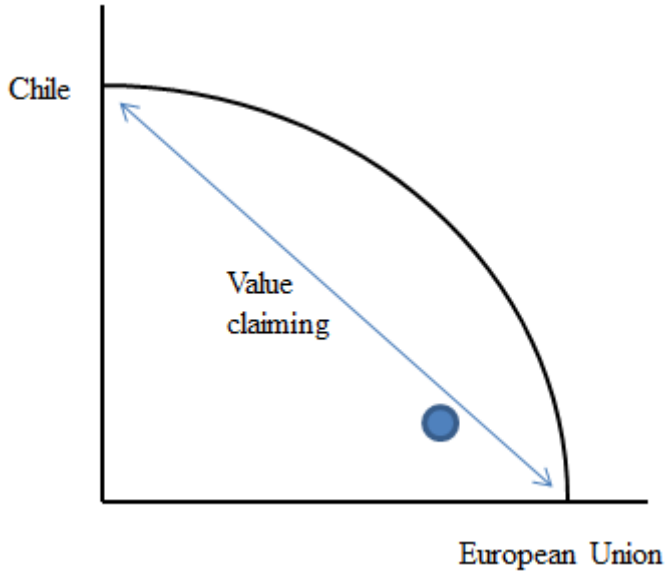
[10]Pisco is liquor that is also grown in Peru and considered by the Peruvians to be a product of Peru which cannot be grown in Chile due to GI restrictions. The EU's recognition of Chilean Pisco is therefore beneficial for Chile.

[11] MERCOSUR is the name for the South American Customs Union which includes Argentina, Brazil, Paraguay and Uruguay.

protection for the most sensitive sectors was maintained. This strategy was successful in that the EU was able to address the issues they wanted to address and maintain protection for agriculture.

In terms of the frontier, there was very little value creation in the EU/Chile FTA; much of the tariff schedule was pre-determined before the negotiations, with a negative list approach listing those goods that would not be free in the agreement. In terms of the negotiation stratagem, the EU strategy was much more based on value-claiming than on value creation. Moreover, Chile was not able to gain a significant amount of market access for sensitive agricultural products, and attempts at value-creation on the part of Chile were fairly unsuccessful as the EU was seen by Chilean negotiators to have their hands tied in much of the items under negotiation. However, an agreement with the EU, even without as much value creation was seen as being better than nothing at all. These considerations indicate that the outcome of the FTA was short of the efficiency frontier and skewed towards the EU as shown in figure 4.2.

Figure 4.2: Negotiated Outcome in the EU/Chile FTA Depicted on the Frontier



4.3 Introduction to the Selected Product Case Studies

The descriptive case study has shown that the U.S./Chile and EU/Chile FTAs are actually quite different both on the surface and when discussing the minute details. Indeed, the EU/Chile FTA contains much more political dialogue whereas the U.S./Chile FTA focuses much more on market access issues including one of the most comprehensive SPS agreements contained within an FTA. Furthermore, the EU/Chile FTA includes many more exclusions for the EU and for Chile which are not present in the U.S./Chile FTA. In order to explore more in depth the difference in negotiated outcomes and rationale for these differences, a series of specific product case studies is conducted in the following sections. The first section defines the negotiated outcomes in comparative terms. This is an important first step in the case study analysis as it must be clear how the two agreements differ with regards to the specific product before causality can be determined. The sections following this discussion of the independent variable will discuss in more detail the various independent variables as proposed by Odell for each sensitive product.

Logic insists that key differences in negotiated outcomes must be attributed to differences in the U.S. and the EU as the situation in Chile was the same for both negotiations. These differences could be in many different areas; however, Odell insists that the key determinants of FTA outcomes are market conditions, domestic politics and negotiator beliefs or strategies. The following selected case studies will test these hypothetical independent variables to see if they could be attributed to the negotiated outcomes for each of the sensitive products identified earlier in the thesis: wheat, sugar, dairy, poultry, wine and fish. The case study was designed to answer questions for each good in order to test the causal mechanism both across countries and across product; the absence of causality across both countries and product cases will serve to weaken Odell's theory as this is a most likely case for testing Odell's theory. A most likely case is one

where “the independent variables in a theory are at values that strongly posit an outcome or predict a low-magnitude outcome” (Bennett and George 1997). This is the case in this study as each of these goods have been defined as sensitive in each of the countries by the literature and the data meaning that they are most-likely to have predictive value. If they do not, then Odell’s theory will be subsequently weakened, especially if similar outcomes occur for the U.S. and the EU with different independent variables or if different outcomes result from strikingly similar independent variables.

4.3.1 The Dependent Variable: Negotiated Outcomes for Sensitive Products

As shown in the earlier case study, the two agreements with Chile are quite different; this continues to be the case when one looks at specific products. Indeed, if the outcomes are not different, then no difference in the independent variables should exist. If the outcomes are different, then a close inspection of the differences in the independent variables must be undertaken. To begin this analysis, it is important to understand how the negotiated outcomes differ. Not much research has been done in this area, although it is generally recognized that there are different implications depending on the path that is chosen for liberalization. While immediate liberalization and delayed liberalization have the same outcome in the long run, there is a value to discerning between these two outcomes; for example a slower liberalization period can allow a domestic industry to adjust to free trade but it also has implications for a potentially competitive sector in the partner country who would prefer to gain market access as quickly as possible in order to secure a market for their own production. As discussed previously, there is a difference between a TRQ that is binding and one that is not, as one can result in virtually free trade whereas the other can result in trade retardation due to high over-quota tariff barriers.

Because of these subtle but important differences, negotiated outcomes must be differentiated and characterized in some way. Perhaps one of the simplest ways is to separate

outcomes into categories wherein the degree of actual liberalization is identified for each group. One benefit of such a characterization is that you can compare outcomes which may be labeled differently but ultimately achieve the same goal; a downfall is that while the characterization allows for some ranking, the actual quantitative difference between the negotiated outcomes is not measured[12]. As such, although the outcomes are characterized differently by some degree, the amount of that degree is not discerned in this analysis. Until research in this area improves, however, this practice will serve its purpose of describing the differences in the negotiated outcomes in the two FTAs under consideration. The following points will define how these outcomes can be characterized, including references to the specific outcomes in the two negotiations in order of the best possible outcome to the worst liberalization outcome:

- Full-immediate: this refers to a negotiated outcome that achieves immediate trade liberalization. It includes schedules F and A for the U.S./Chile FTA and year 0 for the EU/Chile FTA.
- Full-expedited: this refers to a negotiated outcome that achieves free trade within five years. It includes schedules B, K, P, O for the U.S./Chile FTA and years 0, 3, 4, and 5 for the EU/Chile FTA.
- Full-gradual: this refers to a negotiated outcome that achieves free trade over a longer period of time. It includes schedules C, D, E, G, H, J, L, V for the U.S./Chile FTA and years 7, 10 as well as TRQs that are eventually removed and not binding for the EU/Chile FTA.

[12] Although it may be possible to measure the quantitative difference in two negotiated outcomes, it is much more difficult to measure when goods are grouped together as a grouping may include various time periods and tariff reduction schemes.

- Full-restricted: this refers to a negotiated outcome which eventually results in free trade but has restrictions. It includes TRQs that are eventually completely removed but are initially binding during the implementation.
- Limited: this refers to a situation wherein free trade is not formally realized, although the equivalent of free trade occurs. It includes TRQs that are not initially binding during implementation but are also never completely eliminated.
- Limited-restricted: this refers to a situation wherein free trade is not formally realized and trade is also impeded in some way during the implementation period. It includes binding, non-expiring TRQs or those goods that maintain special provisions that prohibit completely free trade such as the R, EP, SP, and PN characterizations included in the EU/Chile FTA negotiated outcomes.
- None: this refers to goods which are excluded from the agreement entirely; there is no liberalization of these goods within the associated agreement.

Tables 4.5-4.10 in the following specific product case studies will refer to these definitions in the negotiated outcomes section so that the degree of liberalization may be compared for each agreement.

4.3.2 Wheat Case Study

The first selected product case study is wheat. Wheat was a particularly contentious product in the two FTAs due to various conditions in each of the countries under consideration. At the time of the negotiations, wheat was considered to be particularly sensitive for Chile because it was one of the few products where domestic protection remained; indeed, the method of protection for wheat, the price band system (PBS), had been a fighting point for Chile in the national, regional and multilateral spheres. On the other hand, the U.S. wheat sector is very much

export-oriented, with high levels of domestic protection coupled with surpluses. The EU wheat sector shares similar characteristics to the U.S. wheat sector, but with a leaning towards exclusions in trade talks to avoid conflicts with existing domestic support regimes. Table 4.5 steps through the dependent variable, negotiated outcome, and the independent variables considered to be important for negotiated outcomes, including market conditions, domestic politics and negotiator beliefs and strategies for wheat. The text following the table will discuss these independent variables in the context of their likely impact on the negotiated outcome. Additionally, a few issues not included in these independent variables will be discussed if they are seen as important to negotiated outcomes.

Table 4.5: Wheat Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	0.35/kg	variable	31.50%	variable
Degree of liberalization	full-immediate	none	full-gradual	none
Tariff reduction scheme	schedule F	--	schedule G	--
Phase-out period	0	--	12	--
Market Conditions	**U.S.**	**EU**	**Chile**	
Production[1]	60	126	1.6	
Consumption[1]	33	114	2	
Net exports[1]	25.1	12.5	-0.4	
Export market	diverse	diverse	N/A	
Growth potential with partner	small	insignificant	insignificant	
Percentage SCT[2,3]	8.21	9.24	4.44	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	open	mixed	closed	closed
Trade negotiation expertise	high	high	high	high
Regional concentration	extensive	extensive	central	central
Other political objective	surpluses	domestic protection	millers/ PBS	millers/ PBS
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	Value-claiming	--	Value-claiming	--
Hard tactics	yes	yes	yes	yes
Soft tactics	no	no	yes	no
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	somewhat	somewhat	yes	yes

[1] 1997-2003 average, millions of MT

[2] 2001-2003 average

[3] SCT-Single Commodity Transfer=share of the value of subsidies that are linked to the production value of the commodity.

The dependent variable, the negotiated outcome, was quite different for each agreement. The U.S./Chile FTA featured a loss of the PBS for Chile and eventual elimination of tariffs for

imported U.S. wheat by way of a 10 year phase out period for durum wheat, while wheat and wheat flour were assigned to one of the most back-loaded schedules, scheme G. This schedule maintains tariff rates at MFN levels until the 5th year when the tariff begins to be reduced by 8.3% in years 5-8, 16.7% in years 9-12, becoming completely free in the 12th year. The U.S. schedule completely liberalized wheat giving Chile immediately free access to the U.S. market as defined in schedule F. In the EU schedule, Chile also had a 10 year phase out period for durum wheat although other wheat and wheat flour were excluded, meaning that no additional liberalization would occur for these products. The EU also excluded wheat and wheat flour from their tariff reduction schedule entirely. By excluding the products, the EU and Chile were both able to maintain existing policy instruments in dealing with bilateral wheat trade. Chile was able to keep the PBS for wheat and the EU maintained their own mechanism which based tariffs on support levels. To this end, any additional liberalization for wheat would have to occur at the multilateral level or as a separate law in the future.

The wheat sector in Chile is very much import competing. Production levels do not meet aggregate demand leading to net-imports of wheat as shown in table 4.5. This is opposite of the U.S. and the EU, which according to Odell's theory, would lead Chile to be more defensive and value claiming in their strategy (Odell 2000). Additionally, wheat comprises the greatest share of hectares planted in Chile of any agricultural product. This motivates the producers and communities to mobilize into a defensive coalition, which was very much the case. There was not much potential for Chile to really become much more export-competitive in wheat, largely due to globally low prices and low-priced imports from its neighbors. The lack of a market alternative worsened Chile's position *vis* a *vis* the U.S. and the EU. Nevertheless, even the U.S. and the EU are not competitive in wheat in Chile because with the added cost of transport, wheat

from the northern hemisphere is not competitive with wheat from Chile's neighbors, primarily Argentina (Chile Interview). This improved Chile's position somewhat as it made the U.S. and EU's market potential worse.

Price bands are the primary method that Chile has used since 1983 to protect wheat. Although Chile knew that they were unlikely to lose the PBS in their negotiations with the EU, they were aware that they would not be able to hold onto it so easily in the U.S. agreement. The PBS uses a ceiling and floor price in order to determine a range of expected prices. The final price of the imports must fall between the price bands or tariffs/rebates are implemented at the border in order to make the prices fall between these bands. The obvious implication for the U.S. is that the PBS proves to be very protectionist as under this system U.S. wheat would trigger an import tariff charge as was the case in the late 1990s (Leight 2008, 229-230).

Politically, the PBS was met with criticism within as well as outside Chile. Chilean wheat producers wanted to keep the PBS for wheat and they let their government know that this was an issue that was very important to them. Indeed, from the beginning of the negotiations with the U.S., Chilean wheat producers were very defensive wanting to claim as much value as possible by insisting that they would not part with the PBS; these producers even left the umbrella producer association, SNA[13], because they thought SNA was too open in their trade stance. Despite the tremendous pressure from this small pressure group, the overall view in Chile was that no exclusions was the real value in a U.S. FTA and that their own barriers could be removed if they were able to gain market access for their diverse basket of goods (Chile interview). Moreover, the wheat producers in Chile were met with resistance even from their domestic counterparts with Chilean processing companies pushing for a removal of the PBS and opening

[13] SNA=Sociedad Nacional de Agricultura; producer associations are discussed in more detail in the annexes.

of the border for U.S. wheat. All administrations had maintained the PBS up to that point and President Lagos, the Chilean president during the time of the negotiations, vowed to keep this system in place. Nevertheless, "the Lagos government – which regarded this FTA as potentially one of its most notable foreign policy achievements and was willing to make virtually any sacrifice to secure the agreement that had eluded both its predecessors – ultimately agreed to a provision under which the price bands would be phased out via a gradual lowering of the price floor beginning in 2008, and eliminated entirely in 2014" (Leight 2008, 231-232). In this case, Chile's place in the international market as a whole played a greater role politically.

Interview data also suggests that the negotiator's beliefs likely played a role in the outcome of the negotiations. One interviewee indicated that Chile's commitments with their MERCOSUR neighbors likely had some impact on the FTA negotiations. Chile knew that any agreements made with the U.S. had to be passed on to MERCOSUR neighbors because of a preferential clause in the Chilean association agreement with MERCOSUR. This changed Chile's BATNA as it meant that if they were to give up the PBS for trade with the U.S., they were giving it up also to their neighbors who were actually much more competitive in wheat (Chile Interview). Moreover, after they lost the WTO dispute with Argentina on the oil PBS, they knew they were going to have to give up the wheat PBS eventually; they also knew when this announcement was made that the U.S. had gained a bit of an upper hand in this area because they could no longer claim that this policy was "WTO legal" (U.S. Interview). Although these circumstances put Chile at a worse negotiating position relative to the U.S., the Chilean side knew that they were going to have to give the PBS up and as such, the strategy was to get the best deal possible in other areas in exchange for giving up the PBS. Moreover, Chile had the sense that the U.S. did not know that they were actually willing to part with the PBS and so it

gave Chile somewhat of an advantage and flexibility in negotiating with the U.S. (Chile Interview).

Wheat is a very export-competitive sector in the U.S. As evidence, the ratio of average U.S. exports of wheat as a share of total production was over 40%. According to Odell, this counter position to Chile in the market put the U.S. on the value-claiming side of the spectrum, which was indeed observed. Wheat goes to more than 130 markets all over the world; this diversification of trade makes the U.S. less susceptible to the changes in any given market. The top four foreign markets accounted for 39% of the total U.S. wheat from 1998 to 2003 on average, where Chile represented less than 1% (FAS 2010). Therefore the reach of U.S. wheat was very global with export markets in every part of the world at the time of the negotiations. U.S. wheat producers would always like to export more; however, they were not dependent on gaining access to the Chilean market. This better market alternative, according to Odell's theory, raised the resistance points of the U.S. making them fight harder as failure to reach an agreement would hurt the U.S. less (Odell 2000).

Policy interventions for wheat in the U.S. include income and price supports rather than border protections. Indeed, U.S. wheat is eligible for all commodity programs included in the farm bill, such as marketing loans, loan deficiency payments, direct and counter-cyclical payments, disaster assistance and crop insurance. The Single Commodity Transfer (SCT) was around 9% for both the U.S. and the EU, meaning that almost a tenth of the value of U.S. and EU wheat comes from subsidies (OECD 2011). Another measure of protection, the producer subsidy equivalent (PSE), for wheat for the U.S. and the EU was higher than the average PSE for 1999-2001 for 13 major commodities putting wheat support in both countries at a higher end of the protection spectrum (Normile, Effland and Edwin 2004). Odell does not take existing domestic

policies into account; however, these are clearly very important strategically. For one thing, by affecting competitiveness, domestic policies may have made the U.S. feel as though they could be competitive in the Chilean market and therefore make them more value claiming.

In terms of political pressure, U.S. wheat is very much in favor of market liberalization while at the same time maintaining their domestic support. The ability of the wheat sector to maintain a great amount of domestic support has been accredited to the abundance of political pressure existing for this group in congress (Hathaway 2001). Moreover, wheat producers' view on trade can be summarized by a quote from a Wheat Associates press release:

> "…lowering barriers to trade dramatically increases the value and volume of U.S. agricultural exports, and increases farm gate prices. The United States' failure to pursue or enact trade liberalization programs with trading partners results in missed opportunities – sales not made, flat or falling prices, and loss of market share to competitors who pursue trade opportunities more aggressively" (U.S. Wheat Associates 2010).

Indeed, wheat in the U.S. is the best example for a market-access oriented sector pushing for liberalization in world markets. The producers are not only concerned with securing a market for their wheat but securing a market for their wheat before other countries take their markets. Other large wheat producers such as the EU and China were of particular concern as Chile was already a very open economy with negotiations well underway with the EU. Preferential access for EU wheat was particularly undesirable as U.S. wheat farmers were already competing with Chile's neighbors in South America. This suggests that the U.S.'s alternative to an agreement was somewhat worsened and therefore they should use more soft/integrative tactics (Odell 2000). They did not use softer tactics, however, suggesting that other factors were more important.

In terms of negotiator strategies/behaviors, breaking the PBS was one of the U.S.'s main objectives of the agricultural negotiators in the FTA, making U.S. negotiators very aggressive in their approach to discussing liberalization in wheat (U.S. Interview). Indeed, U.S. negotiators

indicated that they were unwilling to give up on the removal of the PBS for Chilean wheat even as wheat producers on the Chilean side were unwilling to budge. The U.S.'s unwillingness to budge in this issue, combined with the political pressures in Chile against maintaining the PBS, likely had a great deal to do with the resulting loss of the PBS in the U.S./Chile FTA. Moreover, when undergoing negotiations, the U.S. used hard tactics on Chile such as insisting that Chile had no grounds to maintain the PBS due to their loss to Argentina over the oil PBS. They further criticized Chile for maintaining a system that was not compliant with WTO rules. Moreover, the U.S. was able to somewhat take advantage of their relative power by maintaining that an agreement would not be possible should Chile not concede in wheat and insisting that an overall agreement with the U.S. was much more valuable to Chile than maintaining a protectionist system for wheat. In this way, the U.S. was able to limit negotiations such that Chile would either have to give up the PBS or not have an agreement at all (U.S. Interview). U.S. negotiators knew that Chile would resist this which Odell argues should have made the U.S. more integrative in their strategy but they were not.

In the EU, market conditions were similar to the U.S. in that the EU was a large producer of wheat and also a net exporter. One main difference is that, although in absolute terms the EU produces more than double the volume of wheat that the U.S. does, the EU consumes almost three and a half times more wheat (table 4.5). Wheat production in Europe is quite significant both in that it is the most produced crop in the region and that it is grown in most regions throughout Europe with the only exceptions being a few areas in Spain, Italy and Sweden. France is the biggest wheat producer in Europe with a harvest of 33 million MT of cereals in 2007 followed by Germany which has some of the most productive wheat regions in Europe (European Commission: Eurostat 2009). The high consumption level, combined with the

regional importance of wheat production, make wheat production important for food and livelihood security as well as important for rural development goals. In negotiations these conditions were likely to put the EU on the value-claiming part of the spectrum.

With regards to European wheat trade, much of the wheat that is exported from the EU is exported all over the world. Wheat from France is commonly exported to its neighbors, particularly Italy and Spain, North and South America as well as the Middle East and Africa. German wheat is primarily shipped to its neighbors in the north, including much of the former Soviet Union and the Middle East. In 2003, the only German wheat shipped to the western hemisphere was to Chile (FAO 2011). The fact that the EU is net exporter of wheat is indicative of their success in becoming self-sufficient in wheat; however, like the U.S., the EU was not necessarily dependent on gaining access to the wheat market. For one, wheat production in the EU has been declining indicating that the EU was not looking for an additional market for wheat at the time of the negotiations (PLANISTAT-Luxembourg 2002). Again, these conditions would make the EU more likely to use hard/distributive tactics.

In terms of wheat policy, the EU manages its price policies according to world supplies and prices in order to protect domestic producers and the farm programs used to protect them (Korves 2008). Like the U.S., the EU maintains income and price support programs for wheat. Additionally, there was a mandatory land set-aside program for wheat in order to limit production. For the income support program, wheat is eligible for compensatory payments that are decoupled from price[14]. The price support programs include a price floor system, which may require government purchase of the commodity. Moreover, the EU utilizes various border protections for wheat, including import tariffs, TRQs and export subsidies. Indeed, "import

[14] The payments are not decoupled from production as they are still based on current area planted.

protection has been a crucial feature of the Common Agricultural Policy (CAP)[15], both to uphold the CAP principle of preference for EU-produced goods and to prevent lower-price imports from undermining domestic price support mechanisms" (Normile, Effland and Edwin 2004, 18). Also similar to the U.S., the EU PSE for wheat was very high, estimated at 47% (Normile, Effland and Edwin 2004). Worldwide, wheat is one of the more highly protected crops and this is no exception for the EU; the EU average PSE was 36% for the 13 top protected commodities in the world, indicating that wheat was among the more protected even among other highly protected commodities. These domestic policies are clearly important in the negotiations for further economic policies but are practically ignored in Odell's framework.

As the largest cereal crop produced in Europe and one of the most protected crops, wheat is actually quite sensitive in Europe making its exclusion come as no surprise. Much like the U.S., the EU prefers to avoid linkages in FTAs to domestic support preferring that these issues be dealt with at the multi-lateral level (Woolcock 2008). As such, the EU tends to exclude much of the sensitive agricultural sector in their FTA negotiations. Moreover, negotiators in the Trade Directorate General (DG) indicated that they were aware that Chile's PBS was under dispute and preferred to let that be dealt with at the multilateral level than at the bilateral level (EU Interview). Because of these issues, the EU and Chile chose to leave wheat trade policy off the table from the beginning, leading to no value creation possibilities, but an ability for Chile to maintain the protection they wanted and the EU to maintain their own protection. Greater awareness of Chile's BATNA and a desire to address tough issues would have benefited EU more by way of greater wheat export potential. The institutional practice of excluding products before negotiations even begin suggests a negotiation process that clearly affects outcomes. In

[15] The components of the CAP and the political economy of the CAP are discussed in more detail in the annexes.

this instance, there is no two-level game as suggested by Putnam and reinforced by Odell, but rather discussions at the domestic level are the sole indicator of the outcome.

4.3.3 Sugar Case Study

Sugar is a universally sensitive product, and that is no exception for the U.S./Chile and EU/Chile FTAs. The U.S. and Chile both have some sugar/sugar products which are free upon implementation, whereas the EU maintains protection and/or exclusions for all sugar/sugar products. Table 4.6 provides an overview of the negotiated outcomes for sugar as well as some insight into some independent variables that are proposed to have influenced outcomes. Generally, sugar is sensitive for all parties due to existing policies and the structure of the industries in each of the countries; nevertheless, the outcomes were very different, largely due to how the process of liberalization was approached in the two negotiations.

Table 4.6: Sugar Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	variable	variable	6%, 98%	6%, 98%
Degree of liberalization	full-restricted	limited-restricted	full-restricted	none
Tariff reduction scheme	TRQ, sch. A	TQ(3A), SP	sch. G, A	year 0
Phase-out period	12, 0	--	12, 0	0, --
Market Conditions	**U.S.**	**EU**	**Chile**	
Production[1]	7	19.6	0.4	
Consumption[1]	8.7	16.3	0.6	
Net exports[1]	-1.6	3.2	-0.2	
Export market	N/A	diverse	N/A	
Growth potential with partner	indeterminate	indeterminate	none	
Percentage SCT[2,3]	55.80	56.78	34.15	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	closed	closed	closed	closed
Trade negotiation expertise	high	high	high	high
Regional concentration	concentrated	extensive	concentrated	concentrated
Other political objective	subsidies/ surpluses	domestic protection	millers/ PBS	millers/ PBS
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	value-creating	value-creating	value-creating	value-creating
Hard tactics	no	yes	no	yes
Soft tactics	yes	yes	yes	yes
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	yes	yes	yes	yes

[1] 1997-2003 average, millions of MT

[2] 2001-2003 average, %

[3] SCT-Single Commodity Transfer=share of the value of subsidies that are linked to the production value of the commodity

Table 4.6 shows that the negotiated outcomes for sugar were very specific and complicated. Before the agreements, the U.S. and the E.U. charged different rates for each tariff line with the U.S. charging a duty based on weight for most products and the EU charging a base

rate and a weight-related duty up to a certain limit. Chile's pre-FTA tariffs were very simple and uniform with sugar products either having a uniform 6% tariff or a 98% tariff depending on the form of the sugar product. In the U.S. agreement, sugar is not excluded in keeping with the "no exclusions" principle of the discussions; it is, however, de facto excluded as it requires each country to be a net exporter in order to have preferential/free trade of sugar. Raw sugar for example, was assigned to schedule A, which is immediate liberalization, but there is a clause in the tariff schedule such that the only quantity which will enter for free will be in the amount of Chile's sugar trade surplus. The same clause applies to the over-quota duty applied to the 47 other sugar tariff lines included in the TRQ granted by the U.S. Similarly, sugar liberalization in Chile's tariff schedules requires a surplus from the U.S. but should the U.S. have a surplus, the tariff rate is subject to the G schedule which is back-loaded and does not see complete liberalization until the 12th year of the agreement. Sugar is excluded in the EU agreement for both parties for many tariff lines; however, the EU did grant a quota for some sugar products and a reduction of the ad-valorem duty. The specific duty was maintained on sugar products from Chile. Chile excluded the sugar/sugar products which had an ad-valorem tariff of 98% before the agreement but they immediately liberalized their sugar/sugar products which had a 6% base tariff. With regards to general market access gains, Chile gained access to both markets through quotas while only allowing their less sensitive sugar products to enter Chile freely from the beginning of the implementation.

Chile's sugar production is limited to sugar beet production. The Economic Research Service (ERS) defines Chile as a low-cost producer of sugar beets although they admit that this production goes entirely to domestic consumption, meeting 66% of domestic demand, with the remaining consumption requirements being met by Argentina, Guatemala and Brazil (ERS

2003). As shown in table 4.6, Chile is a net importer of sugar although in relative terms, they are neither a big producer nor a big consumer (FAOSTAT 2010). Although Chile is a low-cost sugar beet producer, there is really no potential for growth for Chilean sugar due to the low volume of production, the existence of high border/domestic protection on the part of importers and the presence of much more productive competitors such as Brazil. Indeed, Chilean sugar is best defined as import competing, putting them on the same side of the market as the U.S. but the opposite side of the market from the EU. As predicted by Odell, Chile and the U.S. were able to use more soft/integrative tactics whereas in the Chile/EU negotiations, more hard/distributive tactics were used.

Sugar is one of the few areas where protection remained in Chile at the time of the negotiations. Of all sensitive product case studies conducted for Chile, sugar has the highest percentage SCT, although it is still lower than the values for the U.S. and the EU (OECD 2011). Moreover, the PBS was also applied to sugar, making it one of the few goods protected by both subsidies and border protection. The sugar PBS had been in effect since 1984 and, like the PBS for the other goods, has been controversial at the multilateral level. In 2001, Colombia challenged Chile's PBS for sugar before the WTO, although the consultation did not result in a review panel (Leight 2008). Nevertheless, like the PBS for wheat and oils, while the maintenance of the PBS was fought for domestically, it was not something that Chile had much ground to defend.

Like much of the world sugar industry, there is a monopoly in Chile for sugar manufacturing held by the company Iansa. This company has only 5 sugar mills that are clustered around the Chilean sugar beet production area in the middle of Chile (Buzzanell 2011). Production of sugar does not meet demand, and so Iansa imports sugar in the refined rather than

raw form (ERS 2003). As such, this company had an incentive in the FTA to lower protection levels for a certain amount of refined sugar imports to help meet the rest of domestic demand. Interestingly, it was the U.S. and the EU who gave TRQs rather than the other way around. It seems as though Chile was able to gain more access than their trading partners, gaining at least some level of liberalization for Chilean sugar exports to these markets. Ultimately, the final proposal regarding the net exporter clause in the U.S. agreement made the issue mute as it allowed sugar to be de facto excluded (Chile interview). Similarly, the sugar/sugar products that had the highest levels of protection were excluded from the EU agreement. Nevertheless, looking at sugar liberalization from the Chilean perspective provides a bit of a puzzle as it indicates that Chile was either really good at bargaining for sugar or, as will be shown in the rest of the case study, there were conditions in the U.S. and the EU which led to Chile getting a great deal for sugar.

The U.S. produces more than 17 times the amount of sugar that Chile produces, although it also consumes over 14 times more sugar than Chile (table 4.6). Accordingly, it has a higher trade deficit for sugar than Chile (FAOSTAT 2010). The growth potential for U.S. sugar is fairly indeterminate; this insecurity is due to both international and domestic policies. As a large importer, the trade and domestic policies practiced by exporters has an impact on the ability of the U.S. sugar sector to grow and develop. Most imports come from Mexico, Argentina, Colombia and other Latin American countries (ERS 2003). Existing sugar policy in the U.S. is much more multi-faceted than that of Chile. Since 1981, the U.S. has utilized price supports, domestic marketing allotments to processors and TRQs to protect sugar. There is a general TRQ for imports of U.S. sugar that is non-preferential in addition to a preferential TRQ granted to Mexico. There is another high-tier quota above the initial TRQ which is mainly filled by Mexico

(ERS 2003). It seems likely that the U.S. gave Chile a TRQ simply because that is the way that the U.S. deals with sugar trade. Although this provision is less important given that it is only valid if Chile is a net-exporter. Indeed, negotiators from both sides contend that the net exporter clause was a brilliant example of value-creation between the U.S. and Chile.

Regarding the U.S. stance towards sugar policy in trade agreements, the Sweeteners Agricultural Technical Advisory Committee (ATAC) made it quite clear that "negotiations on sugar in this and other FTAs do nothing to advance the principal negotiating objectives of the sugar and sweetener industry" and furthermore, that the U.S. should "focus its efforts on WTO negotiations and to reserve negotiations on sugar exclusively for that forum" (ATAC for Trade in Sweeteners and Sweetener Products 2003, 3). Indeed, the interests of the U.S. sugar industry remain in the reduction of world-wide distortions in prices caused by domestic and border policies protecting sugar whereas U.S. sugar policies are seen by the sweetener ATAC to simply provide a protective buffer against the harmful policies of other countries. Furthermore, as Chile and the U.S. are both net importers of sugar that protect their domestic markets from low priced imports, the sugar ATAC believed that sugar should have been excluded from the agreement entirely. The fact that there is an indefinite net exporter clause is the saving grace for much of the sugar industry in this FTA as they admit that Chile is unlikely to become a net exporter. A minority view in the Sweetener ATAC indicated that they were supportive of the administration's commitment to free trade, even in sugar (ATAC for Trade in Sweeteners and Sweetener Products 2003).

It seems in this case that while the sugar industry was quite adamant about leaving sugar out of the negotiations due to the U.S. position as a net importer facing lower priced imports, it was included anyway in the spirit of no exclusions. The question of whether the de-facto

exclusion counts as an actual exclusion may be up for debate. Indeed, if Chile does start significantly supporting their sugar industry and becomes a net-exporter, Chile would have gotten a great deal and the import-competing sugar sector in the U.S. would be all the worse for it. Regardless, some political considerations such as the desire for no exclusions seemed to be much more important than the political and economic considerations of the industry although the net outcome is the same in either case. Odell's framework ignores institutions for the most part and in this negotiation, the "rules of the game"—that there would be no exclusions—seemed to be more important than economic or political conditions although the negotiated outcome certainly reflects these considerations given that neither side really wanted to fully liberalize sugar.

The EU has different conditions than the U.S. or Chile with regards to sugar: it is an exporter and a much larger consumer of sugar products (table 4.6). The EU accounts for 14% of world sugar production, 13% of sugar consumption, 12% of total sugar exports and 5% of sugar imports from 1999 to 2002 (Europa 2004). Furthermore, although sugar is grown in most countries in Europe, around half of all sugar production comes from Germany and France alone. Furthermore, the EU facilitates relationships between growers and manufacturers "aimed at ensuring an equitable balance between the two sets of partners and encouraging inter-trade agreements of benefit to the entire sector and the competitiveness of EU production" by way of framework provisions and quota transfers between producers and manufacturers (Europa 2004). Thus, political action was likely quite strong for sugar given the relative concentration of production and the existing relationship between the producers and the millers. Odell argues that "interest groups mobilize and domestic politics shapes the government's negotiating objectives and strategies" (Odell 2000, 57) so in this case, the sugar industry was likely the leading force

behind negotiating objectives for European sugar. A small non-binding quota was not threatening for the EU and they gained immediate market access for some sugar products to Chile which had previously had a 6% tariff and the PBS.

The production and industrial concentration in the EU sugar sector is likely partially to blame for stagnation in European sugar policies. By 2004, sugar policies had not changed significantly in over 30 years given that much of the policies presented in the common market organization in the sugar sector in 1968 were still in place (Europa 2004). In terms of protection for the sector, the EU uses mechanisms such as minimum price supports, production quotas, storage of surpluses, refinement subsidies in addition to border protection which features a fixed duty, a system similar to the PBS, and export subsidies which are referred to as export refunds. The presence of these policy mechanisms has made European sugar very competitive but at the same time it has entrenched within the sector a perceived need for continued support (Europa 2004). This clearly has implications for trade policy as the EU cannot implement trade policy which undermines domestic policy and protectionist trade policy is also kept in place in order to further protect the concentrated and organized sugar sector.

Like Chile's PBS, EU sugar policies have been disputed within the WTO. Australia and Brazil complained as early as 2002 about European export subsidies on sugar with the matter turning into two separate disputes within which numerous countries joined forces against the EU sugar policies (World Trade Organization 2005). The problems associated with WTO-disputed sugar policies combined with Chile's struggles to maintain the PBS likely made it such that sugar would be too sensitive an issue for either to address in an FTA. Indeed, the EU has indicated that they prefer to deal with such issues as protection in the multi-lateral realm rather than the bilateral realm making real policy changes for sugar within the FTA an unlikely

occurrence. As such, the negotiated outcome was to exclude the most sensitive sugar entirely from negotiations while granting Chile a small import quota into the EU with very little duty liberalization. Odell's framework largely ignores international pressures in addition to institutional considerations which were both issues in the EU/Chile sugar discussions.

4.3.4 Dairy Case Study

Dairy is a somewhat more complicated case study to conduct compared to wheat and sugar. For one thing there are many different products in dairy and so a particular area may be a milk producer but not a significant cheese producer. As such, the pre-FTA environments in the U.S. and the EU were very specific with each product classified by fat content, container, etc. having a unique tariff rate. Chile's pre-FTA environment on the other hand was much simpler due to their trade policy of the uniform 6% tariff for most products. This is not to say that Chile's environment for dairy was less sensitive than the U.S. or the EU but rather that a simple outcome such as the use of only one schedule or simply excluding everything was less likely of an option. Table 4.7 depicts the negotiated outcome for liquid dairy such as milk and cream as well as the negotiated outcome for other dairy products including cheese and butter. The independent variables, market conditions, domestic politics, and negotiator beliefs are presented together although anything specific to a particular dairy product is discussed in the text.

Table 4.7: Dairy Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome-Liquid dairy	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	variable	variable	6%	6%
Degree of liberalization	full-gradual	limited-restricted	full-gradual	none
Tariff reduction scheme	TRQ, sch. A, C	year 0-SP	sch. B, C	--
Phase-out period	0, 8, 12	perpetuity	4, 8	--
Negotiated outcome-Other dairy	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Degree of liberalization	full-gradual	limited-restricted	full-gradual	limited
Tariff reduction scheme	TRQs, sch. A, B, D, F	TQ(2a), PN	sch. B, C	TQ(1a)
Phase-out period	0, 4, 10, 12	perpetuity	4, 8	perpetuity
Market Conditions	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Production[1]	89.04	220.5	2.486	
Consumption[1]	90.49	211.8	2.500	
Net exports[1]	-1.45	26.38	-0.194	
Export market	N/A	Europe/ diverse	Mexico	
Growth potential with partner	indeterminate	indeterminate	notable	
Percentage SCT[2,3,4]	38.76	39.76	5	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	mixed	closed	open	open
Trade negotiation expertise	high	high	high	high
Regional concentration	changing	mixed	concentrated	concentrated
Other political objective	subsidies	subsidies/ surpluses/ GI	growth potential	growth potential
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	mixed	value-claiming	mixed	value-claiming
Hard tactics	yes	yes	yes	yes
Soft tactics	yes	no	yes	no
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	somewhat	yes	yes	yes

[1] 1997-2003 average, millions of tonnes

[2] 2001-2003 average, %; the estimate is for milk

[3] SCT-Single Commodity Transfer=share of the value of subsidies that are linked to the production value of the commodity

[4] Chile had no Producer SCT in 2001 or 2003 but in 2002, the % SCT was 15.01

One instrument that the U.S. uses extensively for dairy products is the TRQ. The U.S. has 6 different TRQs for different dairy products including liquid dairy, cheese, milk powder, butter, condensed milk, and other dairy products. All of these TRQs are eliminated over 12 years with the over-quota tariff reduction following schedule J which is one of the most back-loaded reduction schemes. Nevertheless, none of the dairy TRQs were binding in 2001 or in 2003 indicating that the agreement actually achieved liberalization in dairy, at least in the beginning. Many of the dairy product tariff lines which are not included in the TRQs for the U.S. are still protected by schedules B, C, D and J which are eliminated in 4, 8, 10 and 12 years respectively. Moreover, some dairy products were free before the agreement and therefore continue to be free (schedule A) and others become free upon implementation (schedule F). Chile utilizes schedules B and C for removal of tariff barriers to the U.S. not liberalizing any dairy products immediately but eliminating all protection by the 8^{th} year (schedule C) at the latest (table 4.7). Moreover, the U.S. and Chile argue that after 12 years all dairy is completely free which is a great opportunity for the Chilean dairy industry.

The EU agreement also featured a reciprocal TRQ for cheese and curd with a preferential quota of 1500 metric tons with a volume increase of 5% every year. Like in the U.S. agreement, this TRQ does not seem to be binding initially either; however, dairy never becomes free in the EU agreement although the quota level grows every year. If Chile were to become really competitive in cheese and curd, it would always hit a ceiling with the EU quota. Additionally, the EU excluded most other dairy including milk, cream, butter and other dairy making exports of those products to the EU costly by having liberalization of the ad-valorem duty only while maintaining the specific duty as indicated by the SP designation. Chile also completely excluded all dairy except cheese and curd which has the same non-binding quota as the EU tariff schedule

however so imports from the EU into Chile will also remain more costly than those from the U.S.

Of course, production, imports, exports and consumption in Chile was much lower than that of the U.S. and the EU (table 4.7). Consumption in Chile was only 2.7% of total U.S. consumption compared to 1.3% of European consumption. Much of Chile's dairy demands were being met with domestic production leading to low import dependency. On average from 1997 to 2003 Chile only imported about 10.8% of its dairy consumption (butter, cheese, milk, and cream) compared to 40.5% for the U.S. and 18.8% for the EU. Chile only imported an average of 2.5% of its whole milk consumption from 1997 to 2004. Chile exports a little bit more of its whole milk production, with average exports as a percentage of production around 17% from 1997 to 2004. Indeed, Chile exports about 83% of its cream production compared to practically no exports as a percentage of production of other dairy products. Nevertheless, Chile had great growth potential in dairy with the growth rate for milk exports around 139% from 1997 to 2003 (FAOSTAT 2010).

The economic statistics make it hard to classify the Chilean dairy industry as import-competing or export-oriented. For this, other factors in play in Chile at the time of the negotiations must be considered. For one, the Chilean dairy industry was in a period of change at the time of the negotiations. It was becoming much more modernized which allowed for greater productivity and diversification. Furthermore, "exciting new opportunities like the Free Trade Agreement with the United States also spurred export-minded activities in companies who had traditionally only looked internally for their markets" (Jefferson and Rice 2005, 2). Chilean negotiators concurred with this assessment as well discussing the potential of the Chilean dairy industry to develop and to benefit greatly from the U.S. FTA; they were disappointed that they

were not able to gain as much from the EU agreement as dairy was excluded. Furthermore, the TRQs that Chile was given in the U.S. agreement were not binding, at least not initially, which still allowed the Chilean dairy industry to grow (Chile Interview). As evidence, from the years 2003 to 2004, Chile's dairy exports grew by 212% (Jefferson and Rice 2005). Much of these exports went to Mexico with which Chile had a preferential FTA. Although net exports were negative on average from 1997 to 2003, the dairy industry definitely had growth potential especially when granted lower barriers to entry by trading partners. Moreover, because Chile had Mexico as a market alternative, Odell would claim that Chile would have had a higher resistance point which certainly seemed to be the case.

The Chilean Dairy Product Exporters Association (ExporLac) works with diary companies in order to promote Chilean dairy products in external markets. With the help of this organization, fifteen Chilean companies exported dairy products to the U.S. by 2005 (Jefferson and Rice 2005). The producer organization (FEDELECHE) was also in favor of the FTA like many other organizations within SNA. Obviously Chile was not a big exporter of dairy in general and certainly not to the U.S. or the EU; however the important thing for Chile was that the FTAs would create more opportunities for a more competitive Chilean dairy sector in the future. With regards to protection, the industry's only border protection, besides SPS and other standards, was the uniform 6% tariff and without a great deal of domestic support, the industry had been able to survive due to their low cost advantage and their small domestic consumer base making it a less attractive market for import surges. Nevertheless, Chile did not immediately open its own market to U.S. and EU dairy imports.

Chile's dairy sector clearly wanted to gain as much market access as possible for their growing industry. The politics were behind the agreement and the economics made Chile look

like a relatively non-threatening trading partner. It is clear, however, that the U.S. and the EU were not as open to liberalization in dairy as Chile based on the outcomes. Nevertheless, Chile tried to gain access where possible and was generally happy with the U.S. agreement in particular as it allowed them to enter into the U.S. market and gain full liberalization even if it would take some time to do so. The Chilean dairy sector needed time to become more competitive in order to take advantage of this opportunity in any event (Chile Interview). In the EU agreement, the EU's practice of excluding much of dairy before it could even be discussed put Chile on the more defensive end of the spectrum and indeed, they maintained much more protections than the industry needed, reciprocating the EU's treatment of their own dairy. There is really nothing that Chile could have done to gain more access to the EU market, except to try to raise the quota, because of the approach that the EU took to exclude dairy from the very beginning. Odell would identify this zone of agreement as being very small and indeed it was; however, in terms of what led to outcomes, the institution, or "rule of the game", of listing exclusions prior to actual negotiations constrained and thus determined outcomes greatly.

According to the 2003 World Dairy Situation, the U.S. produces 13% of the world milk supplies although they are not a major world exporter compared to countries in Oceania and Europe. Dairy products are not widely traded compared to other commodities; only around 7% of milk products are traded with those traded goods often facing policies that limit competition to the domestic industry (Hemme, Weers and Christoffers 2003). The U.S. consumed more dairy than was domestically produced from 1998 to 2003 (table 4.7); moreover, the U.S. had a negative trade balance for both liquid dairy and other dairy. The only dairy products wherein consumption was less than production were cream and whole milk which was also the case for Chile (FAOSTAT 2010). This statistic is indicative of the sector's structure: some dairy products

are exported although most are not making the dairy sector as a whole import competing. Those products that the U.S. does export are also exported by Chile and so trade in this sector was not complementary making it a more difficult sector for the U.S. Accordingly, the potential for growth was somewhat indeterminate. Again, being on the same side of the market as Chile certainly made the U.S. more defensive.

Although the U.S. maintains much more protection for their dairy sector than Chile, Chile's dairy sector was much more confident about their potential as an exporter than the U.S. Like other countries, the U.S. maintains a certain amount of protection for the dairy sector which includes border measures, the buying of surpluses by the government and strict standards. One article suggests that "trade barriers for many dairy products have limited U.S. imports of these products to less than six percent of U.S. consumption" (Sumner and Balagtas 2002, 1). These barriers include TRQs for imports of dairy products in addition to subsidies to dairy exporters of certain dairy products including milk powder, butterfat and various cheeses through the Dairy Export Incentive Program (DEIP). Additionally, milk prices were fairly well regulated by milk marketing orders which provide a minimum price that processors must pay. Moreover, the U.S. government had the practice of buying dairy products at the time of the agreement and although the program in the farm bill that provides this price support was supposed to be eliminated in 1999, the program was extended through 2007 (Sumner and Balagtas 2002). Again, the need to create policies that are not in direct conflict with existing policies was a great part of the U.S. unwillingness to allow immediate liberalization.

Perhaps partially because of this policy structure, the geography of milk production in the U.S. at the time of the negotiations was undergoing some changes. For one thing, dairy farms were becoming fewer but production continued to increase from 1997 to 2001. Similarly, the size

of the operations in the U.S. continued to grow during this time period and much of milk production was moving to the Western states from the Southeastern and Midwestern states (NASS 2002). The implication is that the sector could be becoming more productive. However, the geographical changes in dairy production could have indeterminate implications for political bargaining depending on if the sector is able to remain organized enough to push for more favorable policies for the sector.

The U.S. dairy sector was both offensive and defensive in this FTA negotiation. For one thing, they were used to having to defend their domestic support for the dairy sector and wanted to at all costs avoid linkages in the FTA to their support programs. The Animal and Animal Products ATAC (which includes dairy) indicated in their report that they were happy that the agreement "preserves the U.S. right to continue its domestic support and assistance programs by confining those issues to multilateral discussions at the World Trade Organization" (ATAC for Animal and Animal Products 2003). Furthermore, the group was pleased that the agreement addressed NTBs such as SPS and ROO. A big issue for dairy is getting their standards approved in Chile which the group urged still needs to be finalized before a final agreement. Another pressure was a market access one with the dairy sector wanting the tariffs for their products to be removed as quickly as possible in order to gain cheaper access to the highly competitive Chilean market that currently receives most diary imports preferentially from Argentina. Interviews indicate that the dairy sectors in the U.S. and Chile were able to express their interests and come to a mutually beneficial agreement for both. This shows that there was a bit of value creation and value claiming but that the negotiations were overall flexible and even, rather than one party dominating discussions. Of course, the U.S. placed limits on imports in order to protect domestic support programs. Based on market and political considerations however, exclusion of dairy by

the U.S. would have been unsurprising; the fact that complete liberalization occurred and that the sector was happy about it again reflects the commitment to no exclusions but also indicates that both sectors were confident in their ability to compete or they underestimated the other party's potential.

The EU is a large dairy producer, consumer and exporter. Around 22% of world milk production is in the EU-15 countries and 26.7% of world production is in the EU-25. Furthermore, the EU-15 holds 29% of the world market share in dairy exports. Much of dairy production in Europe (50%) is converted into tradable dairy products (cheese, dry milk, condensed milk, etc.) which comprise much of the exports (Hemme, Weers and Christoffers 2003). These exports go all over the world but particularly to other European markets including Russia and the Mediterranean. FAO statistics indicate that milk production in Europe from 1997 to 2003 was on average over twice that of the U.S. and over 73 times that of Chile (table 4.7). Furthermore, EU dairy net exports were more than 10 times the production and consumption of dairy in Chile. The product with the least amount of exports and imports to total production was whole milk (6.2% and 8.7% respectively) which makes sense as much of milk production that is not processed into tradable products is consumed (FAOSTAT 2010). Odell would expect the EU's position on the opposite side of the market to make them more integrative in their strategy, but it is not clear that this was actually not the case based on the limited amount of liberalization that took place on both sides.

Like other agricultural sectors in the EU, dairy has an arsenal of policies that protect the industry and are often questioned by other countries and by the EU itself in its continual reform processes. In the price policy realm, the EU had a target price for milk as well as intervention prices for butter and skimmed milk powder which allows the EU to buy the products should the

price fall below 92% of the intervention price. There is also public disposal and private storage which help to manage the supply and thus keep the producer price high. Another policy to manage the supply side of dairy is a milk quota system which was to end in 2000 but which was extended until 2007-08 at the time of the Agenda 2000 reforms. And of course, there are import tariffs and export subsidies for dairy products. Differences in the structure of dairy production all throughout the EU make policy reform difficult because "firstly, production costs and gross margins are very heterogeneous and, secondly, smaller and less efficient dairy farmers contributed to proper management of the landscape and nature in rural areas" (Benjamin, Gohin and Guyomard 1999). The insecurity with policies makes growth potential with Chile indeterminate. As such, although they were on opposite sides of the market, it is not sure that they saw themselves in that way; indeed the EU acted very much import competing in dairy largely due to the need to not undermine existing domestic policies.

In terms of dairy considerations in the FTA, dairy is considered to be one of those product groups with high domestic production and remarkable surpluses which of course leads to the EU not wanting to extend its own TRQs but with the preference to extend their own market access (Rudloff and Simons 2004). Indeed, the extension of the TRQ for cheese and curd helps the EU much more than Chile as the EU produces much more cheese than does Chile. However, the quota level was not being reached although data was not available for 2003 to know if they had filled the quota (United Nations 2009). Nevertheless, the sustainability impact assessment reported an increase in dairy exports from Chile with no increase in exports from the EU expected; the impact of the FTA on the dairy industry is non-existent for the EU likely due to the limited market access improvements (PLANISTAT-Luxembourg 2002). Indeed, excluding dairy from the very beginning of the discussion avoided any losses by the sector but also eliminated

the ability to capitalize on an FTA with Chile for the EU dairy sector. A more flexible stance in negotiating dairy might have yielded better results for the EU and for Chile. Based on market conditions, Odell would have expected more value-creation; however, domestic policies, particularly the need to protect existing domestic supports, and the EU's practice of excluding dairy from real scrutiny kept real progress from being made although a small amount of market access is better than none.

4.3.5 Poultry Case Study

Chilean negotiators claim that the poultry negotiations with the U.S. were some of the more exciting negotiations in the agreement. Like in the previous case studies, poultry seemed to be quite sensitive in the negotiations as reflected by the outcomes. Indeed, the outcomes were quite interesting: there was a ten year TRQ for certain cuts of poultry and turkey meat for both the U.S. and Chile. These allowed zero quantities to enter for free the first two years and thus were classified as restricted because although liberalization occurs, it is in no way immediate. For the U.S. whole chickens were completely free (schedule A) while other poultry products were subject to the B and C schedules which have tariff elimination in 4 and 8 years, respectively, with even tariff reduction each year. Chile was able to utilize the H schedule for its sensitive poultry cuts not covered by the TRQs which allows for two years of adjustment before tariff reduction begins; this protection is completely removed by the 10^{th} year. In the EU agreement on the other hand, Chile has eliminated all tariff barriers for poultry upon implementation of the agreement. The EU has a 7,250 metric ton TRQ for fowls and poultry however which increases by 10% each year. This TRQ was binding however making the degree of liberalization limited, as it is never eliminated, and restricted as the quota level was being filled and the EU capturing quota rents from Chile.

Table 4.8: Poultry Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	variable	variable	6%, 25%	6%
Degree of liberalization	full-restricted	limited-restricted	full-restricted	full-immediate
Tariff reduction scheme	TRQ, sch. A,B,C	TQ(1d)	TRQ, sch. B, H	year 0
Phase-out period	10, 0, 4, 8	perpetuity	10, 4	0
Market Conditions	**U.S.**	**EU**	**Chile**	
Production[1]	16.3	10.7	0.42	
Consumption[1]	13.6	9.9	0.39	
Net exports[1]	2.7	0.84	0.03	
Export market	diverse	Europe/Asia	N/A	
Growth potential with partner	notable	indeterminate	notable	
Percentage SCT[2,3,4]	0.06	29.06	-0.20	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	open	mixed	mixed	open
Trade negotiation expertise	high	high	high	high
Regional concentration	concentrated	concentrated	concentrated	concentrated
Other political objective	complementary consumption	competition/ standards	growth potential	growth potential
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	value-creation	value-claiming	mixed	mixed
Hard tactics	yes	yes	yes	yes
Soft tactics	yes	no	yes	no
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	yes	yes	yes	yes

[1] 1997-2003 average, millions of tonnes

[2] 2001-2003 average, %

[3] SCT-Single Commodity Transfer=share of the value of subsidies that are linked to the production value of the commodity

[4] The U.S. had no Producer SCT in 2002 or 2003 but in 2001, the % SCT was 0.175

Chile is a net exporter of poultry as shown by table 4.8 but the volume of exports to imports is not very large. Part of this is because Chile imports dark meat but exports white meat

to accord with domestic consumption patterns and the other part is due to Chile's low volume of trade for poultry in general. From 1997 to 2003, Chile barely had any poultry imports with total imports as a percentage of production only accounting for a tenth of a percent on average. Nevertheless, Chile was not very dependent on exports in this time period either with exports as a percentage of production only amounting to around 6 percent. Poultry was certainly an industry of importance to Chile at the time of the agreement, but mainly as a means to meet domestic demand for protein. However, the potential did exist for Chile to become more of an exporter given the openness of Chile and potential preferential access to the larger U.S. and EU markets; as such, the poultry sector saw the FTAs as an opportunity (Chile Interview). Market access for Chilean poultry was clearly an objective given that the sector was not subsidized domestically and tariff rates were relatively low already leaving lower barriers to the U.S. and EU markets as the driving force behind any growth potential for Chile. As a net exporter, albeit a small one, Chile was on the same side of the market as the EU and the U.S. Nevertheless, Chile had to use mixed tactics in order to give their industry time to adjust and to be able to gain enough market access to benefit their growing industry.

Geographically, poultry production is considerably concentrated in that most poultry production is conducted around the middle of the country, but also in that the poultry producers are actually quite organized. The Chilean poultry association (APA) is very active in trade negotiations working not only with their public sector but also with the public and private sector in the partner country where possible. In the U.S. agreement, they worked both with the National Chicken Council and the USA Poultry and Egg Export Council. Domestically, they worked

closely with their own negotiators and the larger umbrella producer association, SOFOFA[16] which was also export oriented. Odell argues that this interaction between "firms" and negotiators can move the frontier; in the U.S. agreement in particular, it certainly seemed to move the frontier outward and perhaps the inability to work with the EU in this way limited the frontier somewhat.

Generally, the Chilean poultry sector can be characterized by a trade stance that is fairly open but at same time the sector realized that the U.S. is very competitive in poultry. They were able to be more open with the EU however, partly because EU consumers are not as complementary to Chile but also because the EU is not as competitive in poultry. APA was satisfied with the outcome of the U.S. negotiations as it gave the Chilean poultry industry three years to adjust before having to face increased imports of dark meat but also because they were able to get some of their excess poultry into the U.S. at the same time period. Furthermore, APA did believe that the negotiators had an impact on the outcomes but also indicated that APA's involvement was very important in order to determine common goals and objectives (APA questionnaire). The TRQ with the EU gave Chile some of the market access that they wanted, but given the binding nature of the quota and the fact that poultry imports are never completely free means that Chile did not gain as much market access as was garnered in the U.S. agreement; moreover, the EU gained completely free access to the Chilean market which is clearly not a reciprocal arrangement. The major difference, besides the trading partner, was the ability of APA to negotiate with counterparts. This suggests that Odell was correct in his hypothesis regarding how the interaction between the firm and negotiators leads to value creation. Nevertheless, Odell does not address the impacts of the way negotiations are undertaken which was clearly important

[16] SOFOFA is the acronym for "Sociedad de Fomento Fabril" which translates to the manufacturers association.

in this case as Chile was simply not able to work with the EU like they were able to work with the U.S. because of the structure of EU trade negotiations.

Much of the interesting parts of the negotiations with U.S./Chile negotiations were the way that the agreement was able to create value. Both sides were running against each other during the negotiations with Chile wanting to achieve its goal of gaining market access while at the same time limiting competitive imports from the U.S. Indeed, the final agreement was very creative and unique in that it had different outcomes for the different types of poultry meat which met the worries of both sides while at the same time allowing access to each other's markets. Chile believes that their relatively small industry helped them get a better deal because they were seen as relatively non-threatening (APA questionnaire). However, the outcome suggests that the U.S. was aware of Chile's potential; yet they did allow Chile a marked amount of access rather than excluding the sector. An inaccurate assessment can lower one's resistance point and therefore enlarge the zone of agreement (Odell 2000) although in this case, it likely had much less to do with the outcome than the value-creation of the private-public sector involvement.

According to the USDA, the U.S. is the largest poultry producer in the world and the second largest exporter of poultry meat behind Brazil confirming that they are quite competitive in poultry production. Additionally, the U.S. is the world's largest exporter of turkey products (ERS 2009). Indeed, the U.S. produced 1.5 times more poultry meat than the EU and 38 times that of Chile on average from 1997 to 2003 (table 4.8). Moreover, poultry meat imports for the U.S. from 1997 to 2003 was just over a 10^{th} of a percent of production whereas exports were over 16% of production. Interestingly, the U.S. also consumes a lot of poultry consuming an average of 13.6 million metric tons per year, more than the EU and Chile put together (FAOSTAT 2010). The U.S. exports poultry all over the world although Russia, Europe and their

North American neighbors are certainly the most significant importers of U.S. poultry (FAOSTAT 2011). As a major world exporter of poultry, additional access to any market is desired including that of Chile. According to Odell, being on the same side of the market as Chile is indicative of more integrative tactics which certainly seems to have been the case here.

Geographically, poultry production is mostly conducted in the south. While there are many poultry associations or farm organizations that may focus on poultry if it is relevant to the region (such as Farm Bureau), the two export associations for poultry in the U.S. that had a lot of involvement in the Chilean negotiations were the Poultry and Egg Export Council, which is based in Georgia[17], and the National Chicken Council, which is based in DC. Although these organizations work hard to serve the interests of the poultry producers, domestic support for poultry and other livestock is not comparable to the domestic support for grains. At the time of the agreement, much of the domestic assistance for poultry came from disaster aid, tariffs and export subsidies(Normile, Effland and Edwin 2004). The main protections clearly remain in trade policy wherein issues such as tariffs, SPS, quotas, and NTBs can have an impact on how much livestock and poultry are traded (ERS 2009). Nevertheless, the poultry producers prefer that these issues are addressed more fully at the multilateral level rather than the bilateral level (ATAC for Animal and Animal Products 2003).

The U.S. poultry producers did want access to the Chilean market but at the same time, they recognized the potential that the Chilean poultry industry had to become a greater producer and exporter so they wanted to get into the Chilean market as quickly as possible while at the same time maintaining protection for their domestic industry. Indeed, negotiators from both sides indicate that the outcome for poultry really was value-creating for both sides as both were able to

[17]Georgia is the largest poultry producing state in the U.S.

have sufficient market access within a reasonable time period and since the agreement was completely reciprocal, both sides felt like they had negotiated the best deal. Furthermore, although an agreement could not be reached through mutual bargaining between private sectors in the two countries, there was sufficient information from these organizations in order for the negotiators to reach a mutually beneficial agreement in the end.

The EU poultry sector at the time of the negotiations was characterized by fairly volatile exports and generally increasing consumption. Production was not as high as U.S. production levels; however, consumption in the EU was less than that of the U.S. The average imports and exports to production were much higher than the U.S. and Chile (18.7% and 26.5% respectively) indicative of a fairly active trading sector (FAOSTAT 2010). According to the EU Poultry association (AVEC), the poultry sector is fairly sensitive to domestic shocks caused by demand changes as well as to the international situation such as changes in world trading patterns which impact both EU export potential and imports making growth potential from a Chilean agreement fairly indeterminate. Moreover, the protection for the EU poultry sector is mainly in the form of import tariffs, TRQs and export subsidies. Removing these barriers for Chile would mean removing much of the protection that the sector has to make poultry competitive with Chile. So although the EU was presumably on the same side of the market as Chile, other conditions made the EU more import-competing and therefore more defensive in their tactics.

Geographically, poultry production in the EU is dominated by France which in 2001 alone made up almost 25% of all EU poultry production. Italy, the UK, Spain and Germany were also dominating players in the industry, with the group of 5 countries constituting almost 80% of total production. Nevertheless, the Association of Poultry Processors and Poultry Import and Export Trade (AVEC) looks after the interests of the entire EU poultry industry given that

poultry is produced in all but one of the 15 member states (Luxembourg). The organization had an office in Brussels at the time of the agreement in order to better represent the group in trade matters (AVEC 2002).

The fact that the EU was self-sufficient in poultry meat from 1996 to 2001 and a net exporter indicates that the industry could be more export oriented and therefore desire more market access (AVEC 2002). This desire for market access was of course balanced by the EU's desire to protect their domestic industry from competition, particularly low cost competition. One source from the industry at the time of the negotiations with Chile and MERCOSUR indicated that the EU poultry sector, including both producers and processors, would be unable to compete with the fierce competition presented by these low cost producers. Their idea to deal with this competition was to impose "precautionary principles" in the standards for poultry products in terms of environmental, SPS, and welfare standards in addition to strict ROO (ITSSD 2002). As such, their views on trade were mixed but their strategy regarding the negotiations was fixed towards the value-claiming end of the spectrum with the objective to maintain protection while gaining access to the Chilean market. In these negotiations, the EU really was able to use their relative power to their advantage. Giving a preferential TRQ to Chile is a way to improve Chile's access to the EU market[18] while at the same time allowing them to maintain their current levels of protection. This is a situation of "winning some and losing some" where in this case, Chile lost for poultry. In the end, Chile gave access to the EU without much of a gain in access for their poultry sector. Although they did get a TRQ, it was the same TRQ as with other meats and therefore is indicative of distributive non-negotiable outcomes rather than the outcome of integrative negotiations. Odell discounts relative power as a determinant of FTA outcomes when

[18] Although some economists contend that EU preferential quotas given to developing exporting countries generate a preference margin but not a high rent (Dupraz and Matthews 2007).

it clearly can have some effects, particularly in comprehensive FTA negotiations wherein the value of reaching an agreement, even if it is not ideal in all areas, with a big country may outweigh considerations of the exact details of every product.

4.3.6 Wine Case Study

Some products are sensitive across the board no matter who is negotiating because of high levels of domestic support, a reliance on the food product for food security and/or other policy issues. Wine is not typically one of those products that each country identifies as "sensitive" in the WTO, although in this agreement, wine was quite sensitive given that each of the entities has a significant and competitive wine sector. Like for other sensitive products, pre-FTA tariff levels were very specific depending on the product for the U.S. and the EU, whereas Chile maintained a uniform 6% tariff for all wine imports (table 4.9). Interestingly, outcomes were almost as complicated as the pre-FTA situation with many different tariff reduction schemes used by the U.S. for different types of wine, different time periods for liberalization and special institutional provisions for the EU, and even Chile utilized of a few different schedules. Despite the very specific outcomes, most wine eventually becomes free upon implementation of the agreements. The exceptions to complete liberalization remain with the EU in their special provisions; those wines covered by PN are not liberalized due to GI considerations and are subject to the agreement on trade in wines in the agreement whereas those goods with the EP classification only have liberalization of the ad-valorem duty maintaining the specific duty tied to the entry price as such the degree of liberalization is classified by "limited-restricted".

Table 4.9: Wine Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	variable	variable	6%	6%
Degree of liberalization	full-gradual	limited-restricted	full-gradual	full-gradual
Tariff reduction scheme	variable, sch. A	year 4, PN; year 10, EP	sch. A, V, E	year 0, 5, 10
Phase-out period	0, 12	4, 10	0, 12	0, 5, 10
Market Conditions	**U.S.**	**EU**	**Chile**	
Production[1]	2.3	17.8	0.56	
Consumption[1]	2.5	16.9	0.18	
Net exports[1]	-0.21	0.90	0.38	
Export market	Canada/UK	diverse	diverse	
Growth potential with partner	indeterminate	indeterminate	notable	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	open	mixed	open	mixed
Trade negotiation expertise	high	high	high	high
Regional concentration	concentrated	concentrated	concentrated	concentrated
Other political objective	consumption	GI, consumption	export-oriented	export-oriented
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	value-claiming	mixed	value-claiming	mixed
Hard tactics	yes	yes	yes	yes
Soft tactics	yes	yes	yes	yes
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	yes	yes	yes	yes

[1] 1997-2003 average, millions of tonnes

The U.S./Chile FTA includes 7 different tariff reduction schemes for the U.S. for different types of wine. All 7 reduction schedules do not have total elimination of tariffs until the end of the 12th year although some are more back-loaded than others. Furthermore, some Chilean wines are classified by the V and E schedules which are both 12 year schedules although V is

back-loaded whereas E has tariff elimination in 12 equal stages. Additionally, the agreement includes a reciprocal preferential clause which states that if another country obtains better market access conditions than the conditions in the U.S./Chile FTA for wine, they must then apply the same market access opportunities to the partner country as well. The EU/Chile agreement is much more restrictive on the other hand with wine. There is an entire annex regarding the "agreement on trade in wines" and a similar annex for the "agreement on trade in spirits drinks and aromatized drinks". These annexes specify that Chile cannot produce or sell any products which are protected by GI's according to Article 22 of the WTO TRIPs Agreement[19] or use any traditional expression, label, identification or production process which is trademarked by the other country as listed in annexes. The upshot of this is that Chile cannot call sparkling wine Champagne as it is not grown in the Champagne region in France among other examples. This applies to all domestically produced wine in Chile including that which is sold in Chile. The Chilean schedule in the EU FTA has liberalization for wines in years 0, 5 and 10 but without the PN subheading. This indicates that there were actually two negotiations going on for wine in the EU agreement: one related to the GI institutional framework for wines and the other concerning specific schedules applied to the wines.

While not as large a producer of wine as the U.S. or the EU, Chile has a very competitive and growing wine sector that depends a great deal on exports. Indeed, imports as a share of total production in Chile were less than a quarter of a percent whereas exports as a percent of production were almost 68% on average from 1997 to 2003 (FAOSTAT 2010). Chilean domestic wine consumption was less than a third of total production making them more than self-sufficient in wine production (FAOSTAT 2010). Low costs and many varieties gives Chile a great

[19]TRIPs refers to "Trade Related Aspects of Intellectual Property" and is signed by many members of the WTO lying out the framework for intellectual property rights in trade.

opportunity to export even more wine if given greater access to large wine consuming areas like the U.S. or the EU. In 2004, over 50% of Chilean wine exports either went to North America or the EU with the rest going to neighbors, Asia and the Pacific (FAOSTAT 2011). Indeed, the potential for Chilean wine in the developed world and in emerging economies is quite notable. It did put Chile on the same side of the market as the EU though and indeed it seems as though integrative tactics were necessary on both sides in order to create such an institutional outcome combined with specific tariff outcomes.

Chilean wine production is concentrated in the middle of the country with the wine export association, Wines of Chile, headquartered in Valparaiso which is a major Chilean port city and the location of congress. Indeed, while a wine producer association is included under the SNA umbrella, Wines of Chile did much of the leg-work in the FTAs, particularly in the FTA with the EU including communicating with Chilean negotiators as well as U.S. and EU negotiators and stakeholders where possible (Chile interview). Chile knew going into the FTAs with the EU and the U.S. that it was going to be difficult to obtain the market access that they desired because Chilean wine varieties compete with the U.S. and the EU in addition to Argentina who also seeks access to both markets; at the same time, both the U.S. and the EU have such a large wine consumer base making getting more market access an even greater goal. In both agreements, Chile wanted to claim as much value as possible because getting access to the other markets was much more valuable for them than maintaining protection. However, Chile could maintain more of a value-claiming approach in the U.S. agreement because they knew that the U.S. would not try to impose as many technical barriers, such as labeling requirements, as the EU. Nevertheless, they knew that if they wanted any kind of improved market access for their

wine in the EU, they would have to accept discussions over technical barriers and particularly, over GIs.

Unlike Chile, the U.S. wine sector is characterized by greater consumption than production and thus is a net importer (table 4.9). Indeed, imports as a share of total production was on average 20.8% from 1997 to 2003. At the same time, the U.S. exported about 11.6% of the total production of wine indicating that there is a demand on the international market for U.S. wine although it is clear that U.S. consumers demand foreign wine. The U.S. exports wine mainly to the UK and Canada. In terms of U.S. wine imports, most wine comes from Europe particularly from Italy, France and Spain and South America with Chilean wine ranking above Argentinean wine from 1993 to 2005 (Pick and Perez 2006). The main benefit for wine in the U.S. agreement according to the U.S. was that "tariffs on U.S. and Chilean wines are being progressively harmonized down to the lowest wine tariff rate and will be eliminated by 2016" (FAS 2009). This is in line with the idea that wine trade with Chile is important both in terms of imports and exports.

Most U.S. wine production is concentrated in the state of California with over 90% of U.S. wine production coming from California from July 2004 to June 2005 (Pick and Perez 2006). California wine is characterized by larger wineries whereas wine production in the greater U.S. consists of more frequent but smaller-scale producers. As a result, much of the wine that is exported is from California or the Pacific Northwest. Politically, one problem that the ERS found to be relevant for the domestic wine market is that inter-state commerce for wine is fierce with states preferring to create domestic barriers of entry to out-of-state wine (Pick and Perez 2006). Nevertheless, WineAmerica (The National Association of American Wineries) exists to encourage growth and development of the wine industry as a whole and to influence policy for

the benefit of American wines (WineAmerica 2011). This policy influence is both domestic and international commerce and regulations oriented. However, the political influence of the wine sector in the U.S. is not comparable to that of wheat or sugar for example likely because of the heterogeneity of the domestic industry and the presence of internal disputes which divide producers over economic issues.

Strategically, the U.S. wine sector wanted to gain access to the Chilean market while at the same time maintaining a bit of protection for the domestic wine sector against competitive Chilean wine. The U.S.'s opposite position in the market, made them much more value-claiming although this was likely balanced somewhat by consumption patterns. The specificity of the negotiated outcomes indicates that the negotiations were likely much more motivated by economics than politics. Some of the wines have gradual tariff reduction over 12 years whereas some are so back-loaded that there is no tariff reduction until the 12th year when it becomes free. Moreover, this assessment is in line with the assessment of the political pressure coming from wine being fairly weak. Power did not seem to play as large a role in the U.S. negotiations either as the Chilean wine association was very experienced in trade negotiations and was able to shift negotiations to a more economic rather than political sphere (Chilean Interview).

The EU wine sector is similar to the U.S. in that although they are a large producer of wine, they are also large consumers of wine (table 4.9). The EU did manage to be a net exporter of wines, however with exports as a share of total production around 28.7% compared to imports as a share of total production was around 23.6%. The EU is the largest producer of wine in the world and EU wine exports account for 70% of global wine exports (European Commission: Agriculture and Rural Development 2011). Moreover, EU wine exports go to markets all over

the world. This put them on the same side of the market as Chile although this was not the sole culprit in explaining the EU's behavior in the negotiations.

With regards to wine policy, the EU has struggled with balancing supply and demand. Reforms in 1999 sought to fix this problem by "giving producers the chance to bring production into line with a market demanding a higher quality and to allow the sector to become competitive in the long term…by financing the restructuring of a large part of the present vineyards" (European Commission: Agriculture and Rural Development 2011). Essentially, domestic policy relates to making EU wines more competitive domestically and internationally by increasing the value of their production while reducing the actual acreage in wine by restricting the planting of new vineyards. This policy creates an interesting political dynamic as it keeps wine production in the hands of established wine producers rather than allowing for greater diversification. This reinforces political concentration in the wine sector regardless of the actual region of production. Indeed, political concentration is likely the reason that these policies came about in the first place. Odell hypothesizes that domestic groups shape a governments negotiating objectives and indeed these wine producers had great incentives to get GI recognition for their wines in order to increase their value.

The growth potential for EU wine in Chile was fairly indeterminate, partly due to policy issues in the EU and partly due to the small consumer base in Chile. One problem with competing with Chilean wine is that Chilean wine sold domestically is much cheaper than wine from the EU. Even a low uniform 6% tariff rate for wine imports is not good for high-valued wines from the EU. Moreover, the wine consumer base is fairly small and the group of consumers who are willing to pay more for EU wine is even smaller. In addition, many Chilean wine varieties originally came from Europe and as such compete directly with EU wine. In order

to become more competitive in Chile, the EU needed to establish rules for intellectual property wherein native wine production in the EU cannot be "imitated" in Chile. The FTA negotiations were a good place to address this issue as progress at the multilateral level was minimal and making a more intellectual-property oriented agreement with another wine producer would help the EU tremendously both in making their wines more competitive with this small market but also in showing that progress in this area can be made. This initiative was followed in the FTA negotiations with Chile with wine being discussed from the very beginning with a great deal of value claiming from the EU seeking to preserve their own GIs to the greatest extent possible. Nevertheless, the EU had a greater need to get this kind of agreement and therefore also had to use softer tactics like working with the industry in Chile, getting support from Pisco producers who would presumably benefit from GI restrictions as well, and generally having to convince Chile that an agreement with these restrictions would be worth the improved market access that Chile would receive. Nevertheless, the EU still had to remain somewhat inflexible and to use their relative power in order to get these restrictions so that they could meet their goal of becoming somewhat more competitive in Chile and to set a precedent for multilateral discussions regarding GIs.

Indeed, there seems to be a different dynamic to discussions regarding non-tariff barriers compared to discussions over tariffs. Relative power becomes much more of a determinant of outcomes because it shapes the agenda. The EU wanted institutions for wine to be discussed and so they were; nevertheless, Chile accepted these assuming an overall agreement would outweigh the additional institutional costs. Clearly, Chile thought that their wine sector was able to compete with and perhaps even benefit from institutional harmonization with the EU.

4.3.7 Fish Case Study

Fish trade can actually be quite sensitive despite that it is not a traditional agricultural "commodity"; the reason for this is that much of fish trade benefits developing countries through export revenues, employment and food security but this trade often is impeded by SPS requirements, high tariff rates and subsidies in developed countries (MRAG: DRID 2008). Indeed, this is considered to be the case for Chile as they are a large producer of fish and fish products and export these products primarily to the developed world including the U.S., Japan, and the EU. In addition to the international insecurity in fish trade, there are a few characteristics in the U.S. and the EU with regards to fish trade with Chile which make this sector an important one when discussing sensitivities in free trade agreements. In FTA negotiations, fish is always discussed separately from agriculture largely because in the WTO fish is also considered separate and discussed separately. This was the case in the two FTAs under question although outcomes are very similar to other sensitive agricultural products making use of the tariff reduction schedules in the U.S. agreement and TRQs in the EU agreement (table 4.10).

Table 4.10: Fish Case Study: An Evaluation of the Dependent and Independent Variables

Negotiated outcome	U.S.	EU	Chile-U.S.	Chile-EU
Pre-FTA tariff protection	free, variable	variable	6%	6%
Degree of liberalization	full-gradual	full-restricted	full-immediate	full-gradual
Tariff reduction scheme	sch. A, F, B, D	TQ(4a, 4b, 5)	sch. A	TQ(3a, 3b, 4)
Phase-out period	0, 4, 10	0, 4, 10	0	0, 10
Market Conditions	**U.S.**	**EU**	**Chile**	
Production[1]	5.3	8.1	4.7	
Consumption[1]	7.1	14.7	1.0	
Net exports[1]	-1.8	-6.6	3.6	
Export market	N/A	N/A	Northern hemisphere	
Growth potential with partner	none	none	little	
Domestic Politics	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Views on trade	mixed	mixed	open	mixed
Trade negotiation expertise	high	high	high	high
Regional concentration	concentrated	concentrated	concentrated	concentrated
Other political objective	consumption	consumption, standards	export-oriented	export-oriented
Negotiator Beliefs/Strategies	**U.S.**	**EU**	**Chile-U.S.**	**Chile-EU**
Strategic position	value-claiming	value-claiming	value-claiming	value-claiming
Hard tactics	yes	yes	yes	yes
Soft tactics	no	no	no	no
Awareness of own BATNA	yes	yes	yes	yes
Awareness of other BATNA	yes	yes	yes	yes

[1] 1997-2003 average, millions of MT

The negotiated outcome for fish products in the U.S. agreement was surprisingly almost unblemished with protection. Indeed, Chile's tariff schedule included no restrictions on fish imports from the U.S. removing the existing 6% tariff for all fish products upon implementation of the agreement (table 4.10). The U.S. agreement only included protection for seven fishery products: prepared or preserved salmon in oil (B), sardines (B), tunas and skipjack in oil, in

airtight containers (D) and bonito (B). The B schedules are eliminated in 4 equal stages whereas the D schedule for tuna is eliminated in 10 equal stages. The base tariffs in the U.S. for the sensitive fish products ranged from 6% (bonito and salmon) to 35% (whole tuna fish). A lot of fish products were already free before the agreement and therefore remained free under the F schedule, where other fish products that had some tariff protection were free upon implementation of the agreement by way of schedule A.

The EU agreement not only included reciprocal TRQs[20] for fish for both parties but also included longer tariff schedules for other fish not included in the TRQs with the shortest becoming free in year 0 (cooked lobster meat) but most becoming free in years 4 and 10. The TRQs include hake, salmon and canned fish (tuna, skipjack, sardines, anchovies, etc). While the same TRQs apply to both countries, the negotiated outcome is different for Chile than for the EU as the quota was binding for Chilean exports of hake and salmon to the EU in 2003 whereas it was not binding for the EU. This means that if current trade patterns continue, the EU will capture quota rents for Chile whereas EU imports into Chile will be free. Unlike other products discussed, the negotiated outcome for Chile in the EU agreement is for all practical purposes equal to that of the U.S. agreement since no quotas are binding and the remaining products were assigned to the year 0 schedule meaning they would be free upon implementation of the agreement.

According to the State of World Fisheries and Aquaculture Report release by FAO in 2004, Chile was the 6th largest producer of marine and inland capture fish and the 5th fastest growing fish producer in the world. While fish and seafood production overall for Chile lag behind that of the U.S. and the EU, there is also a lot less domestic consumption (table 4.10).

[20] By reciprocal, I simply mean that both countries maintain the same TRQ quota levels. The over-quota tariff levels, however, relate to the bound levels previous to the agreement.

Like in wine, total imports to domestic production was less than 1% on average from 1997 to 2003. Moreover, exports as a percentage of production was almost 80% indicating that Chile's fish sector is very much for export (FAO 2010). Salmon constituted 50% of total fish exports and 94% of total aquaculture exports by 2002 (Gobierno de Chile 2010). In 2003, the majority of fishery exports went to the U.S. (29.7%) followed by Japan and China (27% and 6.2% respectively) in terms of value (Subpesca 2003, 5). One main reason that the U.S. is the number one export market for Chile in terms of value is because the U.S. imports mainly high value fresh and frozen Atlantic salmon, trout and hake. Although Japan also imports frozen salmon and trout, much of the fish imports to China and Japan are fish meal which is actually Chile's largest export in terms of volume although it accounts for a much lower value of exports compared to salmon, trout and hake (Subpesca 2003, 6). With regards to the EU, Germany was the second largest importer of frozen hake and the third largest importer of Atlantic salmon and trout from Chile and the EU is the third largest trading bloc importer of Chilean fish products behind APEC and NAFTA[21] (Subpesca 2003, 5). It would seem as though Chile was on the opposite side of the market compared to the U.S. and the EU but, like in dairy, it largely depends on the form of the export to determine sensitivity.

Geographically, fish and fish processing employment is mostly concentrated in 4 of 12 regions in Chile and while it only employed a little over 2% of the population in 2002, the percent of population employed in these sectors is much higher in these four regions with two regions in the south being the home to around 50% of all fishermen (Gobierno de Chile 2010). In terms of organizational capacity, Chile has a sub-secretary for fish which keeps records

[21] APEC refers to the Asia-Pacific Economic Cooperation forum which has 21 members and NAFTA refers to the North American Free Trade Agreement which is a trade union between the U.S., Canada and Mexico.

regarding fish production and processing in the high seas, coastal fishing zones and inland capture in addition to overseeing domestic fishery policies. There are organizations for fish commerce/political bargaining in Chile as well: the Institute of Fish Promotion (IFOP), the National Fish Society (SNP), the Association for producers of oysters and scallops, and an organization for salmon and trout producers.

According to the Chilean negotiators, the salmon producers were very involved in the negotiations and the negotiations over fish were much more difficult for the EU agreement than the U.S. In both settings, Chile's preference was to garner additional market access. They wanted to maintain their presence in the U.S. market and to increase their potential in the EU market which is a much larger consumer of fish and therefore a potential export opportunity to be realized. The outcomes reflect a very economic outcome for all parties. Indeed, Chile is not a big importer of fish in general, so giving free access to the U.S. market for fish products is not that threatening to the domestic industry. Nevertheless, they maintain TRQs for EU fish products, likely due to the maintenance of these on the part of the EU.

The U.S. does rank above Chile in marine and inland fishery production: it is ranked number 3 just behind China and Peru. Nevertheless, fish and seafood production in the U.S. was less than 1 million MT more than Chile on average from 1997 to 2003 (table 4.10). However, consumption was 7 times that of Chile and imports as a share of total production was about 66% compared to less than 1% for Chile. Moreover, the U.S. was the world's second largest importer of fish products in 2002 behind Japan (FAO 2004). The composition of U.S. fish imports is mainly shrimp, salmon and tuna. The U.S. did export an average of 30% of fish production from 1997 to 2003 however, although it is clear that the U.S. fish industry is not as export-oriented as Chile although they may be significant exporters of some specific fish products. Indeed, much of

U.S. exports were re-exports or exports of imported fish products which had been changed in some way such as canned or processed into fish oil (NOAA Fisheries: Office of Science and Technology 2003). As such, it would seem that the U.S. fish industry is structured such that it imports higher value fish products which are demanded by consumers thereafter exporting those same high value fish products which are not consumed in the same or in a different form. The implications for the sector are that it relies on imports both to meet domestic demand and in order to fuel additional exports for the sector. In terms of fish trade with Chile, the U.S.'s deficit was $675 million in 2003. While the U.S. is obviously open for trade in fish, a more favorable trade balance would clearly be the desire for the sector. In any event, neither the U.S. nor Chile really has the potential to grow much in the partner market because of diminishing fish supplies and already very open trade.

Like the sub-secretary for fish in Chile, the U.S. has a federal agency, the National Marine Fisheries Service which deals with the management, conservation and protection of the marine resources in the U.S.'s Exclusive Economic Zone (EEZ)[22]. As one would imagine, the focus of marine fisheries is in Alaska, the periphery of the U.S., and the Caribbean. About half of marine fish is caught in the Alaska region. Although fishing is a large employer in Alaska, it only constitutes about 2.2% of the employment in agriculture, forestry and fishing in the U.S. when combined with hunting. In spite of its low impact on the U.S. economy both in terms of employment and market benefit, in an FTA fish it is discussed separately and is treated more sensitively due to the precarious nature of it as a natural resource which faces unique problems with depletion and environmental changes. These special issues make it so that the U.S. would seek more protection for the fishing industries with which the U.S. specializes but at the same

[22] The EEZ is a 200 nautical mile zone off of the coast of a country of which that country has exclusive rights to exploration and management according to the United Nations.

time, there is a consumer base and industrial sector who would like cheaper access to a variety of fish which is not necessarily produced in the U.S.

Despite some lingering political issues with regards to fish trade with Chile, the outcomes of the U.S./Chile FTA suggest that much of the discussions were based mainly on economics. As expected, much of fish trade between Chile and the U.S. was liberalized. The fishery products that were not liberalized immediately were processed fish products which also happen to be the products which compete directly with the U.S.'s fish export sector. Indeed, the desire for the U.S. to have free access to fresh fish products but to exclude prepared fish products makes the most economic sense for the U.S. fish sector. Fortunately for Chile, much of their exports to the U.S. before the FTA were in fresh or frozen form; nevertheless, this prevents their fish processing sector from developing its export potential although much of Chile's processed fish, particularly fish meal, goes to Asia rather than the U.S. Compared to similar conditions for other products, the outcomes for fish were not as extreme—perhaps because they were less political—which points to a weakness that would be inherent in any theory regarding outcomes which concerns to the degree to which each of these proposed conditions affects outcomes.

While countries in the EU are not in top ten lists for most fishery products, the EU as a whole is actually quite a large producer of fish and fishery products with 1.7 times the fish and seafood production of Chile and 1.5 times the seafood production of the U.S. Like the U.S., the EU is quite a large consumer of fish products consuming over twice that of the U.S. and over 14 times that of Chile on average from 1997 to 2003 (FAOSTAT 2010). Moreover, the EU has one of the world's highest trading deficits in the industry (FAS 2006). Imports are more than double the production of fish products. Imports of marine fish alone were over 4 times more than the EU production on average from 1997 to 2003. Moreover, exports of all types of fish were almost

equal to production indicating that the EU is quite active in the re-exportation of processed fish products similar to the U.S. (FAOSTAT 2010). Indeed, in 2004, 82% of EU fish imports were non-processed fish (FAS 2006). Moreover, the EU is not as price competitive with Chile particularly in salmon and faces fierce competition from many Asian countries in tuna and anchovy production and canning (FAO 2004). These fairy extreme market conditions would seem to be indicative of an increased propensity to protect the sector which was not really the case when compared to other "sensitive" products.

There are just a few players in the EU which produce a great deal of fish and fishery products (Spain and Denmark for example) whereas other countries produce very little to no fish products, particularly those countries outside of the original EU-15. Similarly, consumption varies greatly in the EU with Portugal and Spain consuming the most fish each year. This makes fish very unique for economic policies and negotiations as protection for the industry would benefit a small group of people whereas liberalization would have larger impacts to the EU overall with some increased benefits for some concentrated consumers. Indeed, perhaps the fact that more people would benefit from liberalization was part of the rationale for full liberalization at the end of 10 years. While consumers are typically under-represented in policy settings, the economic setting could not be ignored.

With regards to the more sensitive fish products, a great deal of EU fish and fishery products are imported from Norway (almost 20%) making the Chilean FTA somewhat more difficult as Chile exports a lot of salmon and trout, two fish also produced heavily in Norway. Indeed, Norway held 84% of the EU market share in fresh salmon. The existence of competitive imports in high value fish like salmon, makes Chilean high value fish exports import-competing which was met with resistance from the salmon fishing sector. Indeed, as mentioned earlier, the

salmon producers in Chile had more trouble in negotiating with the EU with regards to market access for their produce. As for other fish products, the EU resists imports of processed fish product using the longer (10 year) schedule for these producer in order to protect their import competing fish processing industry (FAS, USDA 2006). The outcomes for most fish products seem fairly well linked to pre-FTA tariff levels. However, those with higher tariff levels before the FTA got longer schedules than those products with lower tariff levels indicating a fairly economic and institutional approach to tariff liberalization.

While tariffs were an issue in the EU FTA negotiations, institutional issues also played an important role. The first issue was that of the EEZ: fish production in the EU used to be much greater but subsidies promoted a great deal of over-fishing reducing the amount of fish available to harvest which has created a need in the EU to have access to other fisheries (Gorez 2006). In order to deal with the issue of the exclusive economic zone, there is an article under cooperation which states:

> "in view of the importance of fisheries policy in the relations between them, the parties undertake to develop closer economic and technical collaboration, possibly leading to bilateral and/or multilateral agreements on fisheries on the high seas" (Part III, Title 1, Article 25).

Indeed, Spain's resistance to recognize the 200 nautical mile EEZ limit of Chile was a problem for Chile who depends a great deal on being able to fish and control the fishing in their high seas. Nevertheless, with waters becoming overfished in Europe, Spain has to look for other places to fish and the relationship that Spain has with many South American countries including Chile due to the colonial past provides an opportunity for continued economic interests. Regardless, an agreement was not reached in this FTA and as such, Chile relies on domestic policies[23] and

[23] Such as a policy of not allowing ships to port that have been fishing its high seas and not allowing fishing licenses to non-Chileans.

multilateral agreements[24] in order to protect its fishing zones. The EU fishery industry must also have quota systems for fishing in order to avoid further depletion of their fish resources. Moreover, the EU has tried to make up for job loss in the fishing sector due to reduced quotas by encouraging aquaculture production which can help create jobs in the extra 12 new members in addition to the original 15 member countries through the reformed Common Fisheries Policy which helps provide financial support for these ventures (FAS 2006).

The next issue regarded SPS issues which can often prohibit imports of fish products into the EU. Indeed, the SPS measures annex in the Chile/EU agreement is 54 pages and includes various provisions regarding prohibiting fish with certain diseases, conditions, etc. with some fish subject to checks 100% of the time at the border. And of course, investment in the fisheries sector is an important issue for the EU/Chile agreement as a whole as the largest provider of investments to Chile. Annexes were included in the agreement covering the areas of government procurement and capital movements which would presumably make it easier for the EU to make investments in Chile including the area of fisheries. The EU focus to building institutions is somewhat ignored by Odell but it clearly shaped negotiations in many areas, including fish.

4.4 Comparative Outcomes for Selected Products

In determining the relative importance of certain independent causal variables, it is important to look at relative outcomes in the two agreements for the selected case studies. In particular, a possibility, or efficiency, frontier allows for a visual representation of how well each side was able to reach their negotiating objectives. Understanding this helps in two ways: it defines to a certain extent the degree to which each trading partner was able to gain in a negotiation, and it also helps to clearly identify the differences in negotiated outcomes for

[24] Such as the international agreement which created the EEZ, the Third United Nations Convention on the Law of the Sea in 1982.

different products based on the relative desires of the trading partners. Figures 4.3 and 4.4 depict the relative outcomes for each of the sensitive products in the U.S. and EU agreements, respectively. An important note to this graphic is that the outcomes all relate both to the negotiating objectives of each party and to the degree to which each side was able to gain vis-a-vis all possible outcomes. Of course, since only 6 products were studied, the relative outcomes for each good are only compared to 5 other goods. When a good, such as fish in the EU/Chile FTA, is on the efficiency frontier, it simply indicates that it was the product with which both sides were most able to meet their negotiating objectives in relation to all of the sensitive goods studied.

Figure 4.3: Relative Negotiated Outcomes for Selected Products in the U.S./Chile FTA

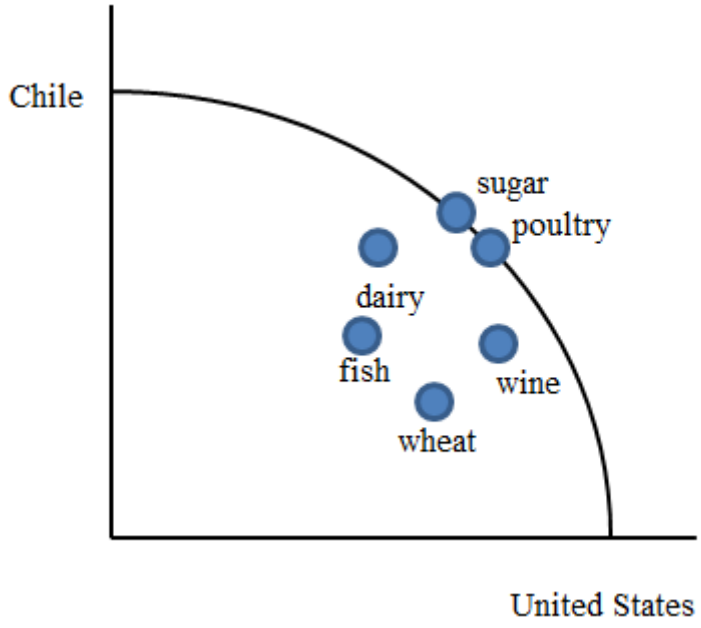
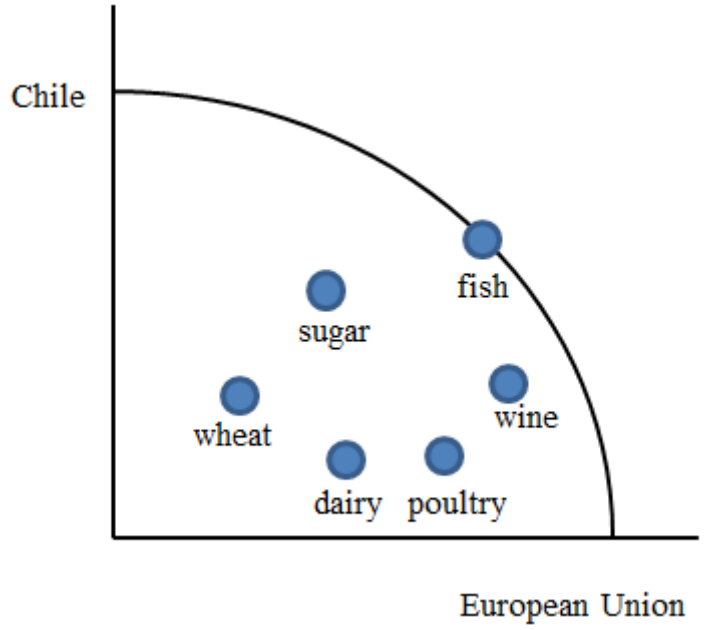


Figure 4.4: Relative Negotiated Outcomes for Selected Products in the EU/Chile FTA



A general assessment of the two figures suggests that in the U.S. negotiation there was more value-creation taking place as most of the products are clustered fairly close to the frontier. One of the main reasons that this likely occurred was the absolute commitment to a comprehensive agreement with complete liberalization. The practice of not excluding anything made negotiations veer towards the side of integrative bargaining rather than defensive claiming. In the EU/Chile FTA, the points are much closer to the EU axis because there was a great deal that was not "negotiated" but rather involved each side simply trying to claim value where possible given the other side's exclusions. Moreover, Chile was not able to gain a great deal of market access for their goods which was a great negotiating objective for many of the sensitive products. Additionally, the outcomes are generally more centered in the U.S. graphic, which was indicative that Chile got more of what they wanted in the U.S. FTA compared to the EU FTA for the sensitive products.

As for the relative outcomes for the specific products, there were two products in the U.S./Chile FTA which shared the efficiency frontier: sugar and poultry. These two goods were

both considered to be efficient outcomes because both sides got what they wanted through value creation rather than value claiming. For sugar, both wanted it to be excluded, and in fact it was excluded, but at the same time, it was discussed and "liberalized" should either become a net exporter. Moreover, it was a great outcome for Chile as they were allowed to keep the PBS longer for sugar than for wheat. Poultry was also efficient in the U.S. agreement because both sides were able to maintain market access to the partner country but with an adjustment period for the most sensitive cuts of poultry. Many countries would have excluded all poultry in negotiations rather than try to find a common ground and determine exactly why poultry was sensitive and to deal with that in particular rather than leaving everything out.

The other goods in the U.S./Chile FTA did not quite make it to the frontier. Dairy ended up being a better outcome for Chile as they were able to gain the market access that they wanted; however, the long over-quota tariff reduction schedules for imports into the U.S. made it less ideal although Chile knew that their dairy industry needed time to become more competitive. U.S. dairy probably could have gained faster access to the Chilean market although outcomes were generally favorable to the U.S. too making it close to the frontier. Similar to dairy, a lot of market access was gained for both parties in wine, which they both wanted, but the outcome was skewed to the U.S. because they were able to keep really long reduction schedules for Chilean wine. Chile would have preferred more immediate access for their processed fish products in the U.S. agreement but they were able to gain a great deal of market access for their fresh fish exports which constituted their main trade flows with the U.S. at that time. The U.S. got immediate access to the Chilean market in fish, but their stance was much more import-competing so more protection would have been better for the U.S. Nevertheless, the U.S. was the clear winner on wheat. The U.S. was able to do away with the wheat PBS which was a large part

of their negotiation objectives; however, Chile was able to maintain a 12 year schedule for wheat making market access for the U.S. more gradual than they probably would have liked. The loss of the PBS was the biggest deal for Chile and so losing it was considered a loss for their overall strategy; however, they were more willing to part with it more easily than the U.S. believed and so the outcome was not entirely on the U.S.'s resistance line.

For the EU, only one product made it to the frontier and the differences in the outcomes were much more spread out. For one thing, fish was the only product studied that actually obtained full liberalization by the end of the 10 year implementation period. Moreover, much of the fish products entered free from implementation. Chile was able to avoid more difficult discussions of the EEZ for the most part and the EU gained access to the Chilean market as well. Once again, it is important to point out that it was a better outcome than that which was obtained for the other products because it was free, there were no special provisions or strict institutional arrangements to abide by and the restrictions which remained in place, really just the TRQs, only applied to a small number of tariff lines.

The products in the EU agreement which were not on the frontier were all excluded in some way. Wheat was excluded entirely from the agreement which was what both parties wanted but of course is indicative of no value creation. As such, it was placed between the two resistance lines far away from the frontier. Other goods had better outcomes simply because they were discussed. Sugar for example, was excluded for the most part but there was a little bit of market access gain for both parties; Chile got a TRQ to the EU although it was restricted by the heading SP which allowed the EU to maintain the specific duty and the EU was able to get a few sugar products into Chile completely free at the beginning of the agreement. Wine was certainly not ideal for Chile as they accepted an "Agreement on trade in wines and spirits" which would force

them to change their own production and labeling practices for wine; nevertheless, wines not covered by GIs became free after 4 and 10 years. The EU gained complete access to the Chilean market however, helping to explain why the outcome is so skewed toward the EU. Dairy and poultry were also skewed heavily towards the EU, mainly because the EU was able to garner much greater market access than Chile. For poultry in particular, the EU got full-immediate access to the Chilean market while only giving Chile a TRQ. In dairy, the EU was not able to get access to Chilean liquid dairy although the TRQ that they got for other dairy products was not binding and actually quite large. Chile, on the other hand, did not gain as much access and although they did have ad-valorem tariff reduction for liquid dairy, everything was excluded from complete liberalization.

CHAPTER 5: ODELL'S THEORY TESTED

Based on the descriptive case study and selected product case studies presented in chapter 4, it is important to determine if the theoretical propositions posited by Odell were actually relevant both within case and across cases. As such, this chapter will discuss if the difference in the U.S. and EU negotiated outcomes can be attributed to the independent variables: market conditions, negotiator beliefs and strategies, and domestic politics. Moreover, the relative importance of these independent variables in each of the selected case studies will be assessed to determine if Odell's theory was strong enough to explain the negotiated outcomes. Lastly, Odell's theory will be accepted, accepted with reservations, or rejected.

5.1 Cross Case Comparisons: The U.S. versus the EU

There was a marked difference between the negotiated outcomes for Chile, the U.S. and the EU both in general terms as well as in specific product outcomes. In general, the EU agreement was much more focused on political cooperation whereas the U.S. agreement was more focused on economic integration. For example, there was a greater degree of liberalization in the U.S./Chile FTA compared to the EU/Chile FTA, and the U.S. agreement featured no exclusions. Moreover, institutional changes were much less common in the U.S. agreement. In terms of paths to liberalization, the U.S. utilized TRQs and back-loaded tariff reduction schedules whereas the EU utilized uniformly phased-out tariff reduction schedules. There were, however, many ways that the EU was able to exclude products while still allowing for an improvement in market access including TRQs, some of which never become free, only partial tariff reduction[25], and outright exclusions.

[25]This included provisions which allowed for the EU to maintain their specific duty or the practice of excluding a product because it is protected by GI.

5.1.1 The Impact of Market Conditions on Negotiated Outcomes

In general, Odell finds market conditions to be very important in economic negotiations as they determine the parties who decide to enter into negotiations, the kind of tactics which are used, and the degree to which political action may be taken (Odell 2000). While Odell discusses various ways that market conditions affect negotiations, the main ideas are that the side of the market that you are on in relation to your partner impacts the way you negotiate, people who will be impacted economically will attempt to shape governmental priorities in negotiations, and the market alternative is important to determine how a party will act in negotiations.

With regards to the impact of having a complementary or similar position in the market, it did help to determine the way that the negotiations went for some, although not all, of the products. For example, just because the EU was on opposite sides of the market as Chile in dairy, sugar and wheat, did not necessarily mean that more integrative tactics occurred. Often the EU acted in an import competing way when market conditions suggested that they were not import-competing. This suggests an alternative factor in play that will be discussed later: domestic policies may create certain market conditions but political bargaining may still refer to the initial state or to the need to maintain these market conditions. The U.S.'s position on the same side of the market did not necessarily mean that value-claiming behaviors were undertaken either. For example, in sugar the U.S. was on the same side of the market but value-creating tactics were used. Again, this suggests an alternative factor in play which will be discussed later: the "rules of the game" affect negotiations and negotiator strategies.

It was true for the most part that those affected most by an economic negotiation were the most active in attempts to shape the government's position in a negotiation. This was especially the case in the U.S. negotiations over wheat. The wheat producers were very involved and wanted the PBS eliminated, and as such it was a large negotiating objective of the U.S. A good

example in the EU was wine, wherein producers really wanted to get recognition of their GIs. In line with what previous political economy theory suggests, consumers were particularly under-represented in negotiations, despite that outcomes in these products impacted them. The benefits of the agreements to consumers was always a highlight given to promote the FTAs; in terms of negotiating sensitive products however, it seemed to have very little to do with outcomes.

Of course, the market alternative seemed to be important in these negotiations. In general, Chile had fewer market alternatives compared to the U.S. and the EU in much of the negotiations. Nevertheless, that did not necessarily mean that Chile used softer claiming tactics and gained less. As shown by figures 4.3 and 4.4, Chile actually did have some gains in the negotiations and although they were mainly achieved through a value-creating strategy, they were not necessarily small gains as Chile was able to successfully secure some degree of market access into the U.S. and the EU. However, the U.S. and the EU often used their relative market alternative to their advantage. Neither the U.S. nor the EU needed an FTA with Chile for economic reasons and therefore, they had an advantage in gaining economic concessions. Again, Chile still did have some gains though and so clearly this BATNA condition involves much more than just market alternatives.

5.1.2 The Impact of Negotiator Beliefs on Negotiated Outcomes

Generally, Odell insists that negotiators will use the strategy which they believe to be most effective in negotiations and that they adjust their strategy based on their own biases. Odell argues that "given incomplete information, the more diplomat A believes B will resist or exploit a value-creating strategy, the less likely A will be to choose such tactics, other things equal" (Odell 2000, p. 74). For the EU, it is common practice to use a negative list approach in FTA discussions where some goods are excluded from the very beginning of the agreement. According to Odell's propositions, the EU would be unlikely to do this if they did not believe

that Chile would accept it; however, an interview with the EU Trade Directorate revealed that the EU does this as a matter of practice in FTA negotiations, regardless of their negotiating partner. The extent to which this is a "strategy" by the EU or an institution is arguable[26]. Indeed, it forms the basis for the "rules of the game" for the negotiations which are largely ignored by Odell but are clearly important for the outcome.

The U.S. knew going into the negotiations with Chile that they would be willing to actually create a completely comprehensive FTA with no exceptions (U.S. Interview). It was also sure that this could not be accomplished with mainly value-claiming strategies. The U.S. had to be willing to give up concessions in order to meet the objective of no exclusions. As such, this confirms to a certain degree Odell's insights but at the same time, it also points to an alternative hypothesis which suggests that the "rules of the game" affect the strategies used in negotiations.

5.1.3 The Impact of Domestic Politics on Negotiated Outcomes

Clearly domestic politics are important in determining objectives in negotiations and what a government can and cannot do in these negotiations. Odell insists that governments must be credible in that they must actually represent the interests of their constituents and also that there is a higher risk of ratification failure if there is more distance between negotiators and constituents (Odell 2000). In each of the tables for each of the products, it was important to clearly define what the views on trade were for the sectoral interest groups as well as the degree to which they were experienced in negotiations in general and their degree of involvement in the current negotiations. These domestic political conditions really did define how the negotiators bargained and in particular it helped to define rationale for a particular outcome. Often it was the case that economic conditions such as surpluses impacted negotiations. In other instances it was

[26] Institutions may very much be integrated into a strategy; however, Odell should include this in his assessment of this causal variable and he does not adequately do so.

the case that millers held a considerable stake in outcomes and therefore shifted negotiations in a certain way to their benefit.

Regardless of the relevance of domestic politics, in terms of consistency, it is not possible to say that a particular condition led to a certain outcome. For example, a closed view on trade did not necessarily mean that the product would be completely excluded. Indeed, domestic politics are very complex and it is the summation of all of the political conditions which can help to account for the outcomes. This helps to identify a limitation to any theory predicting outcomes in FTA negotiations: the degree to which these independent variables affect outcomes cannot be estimated with any kind of precision as it varies with every single agreement. Indeed, domestic politics shape negotiations and thus negotiated outcomes, but how they do that is often a complex puzzle wherein one particular side got their way and the other did not.

5.1.4 Other Factors Affecting Negotiated Outcomes

The assessment of Odell's independent variables in the past three sections reveals that a few important components are missing from his theory. The most common variable to impact negotiations that is not included in his theory is that of the impact of the institutional approach taken in each of the FTAs. The "rules of the game" in particular really do affect negotiator behavior and the negotiated outcomes. In the U.S. agreement, the objective to have an agreement with no exceptions was a very big determinant of the strategy they used; indeed, the U.S. likely used more value-creating strategies than they would have if the negotiations did not have the objective of no-exceptions. Similarly, in the EU agreement, the practice of excluding items before negotiations even began was a huge determinant of outcome. In these cases, the outcome was determined entirely by that "negative list" produced in the very beginning without any negotiations taking place. While these factors are important in determining weaknesses in

Odell's theory, they are also very relevant in determining the difference in negotiating with the U.S. versus the EU.

Another important factor was the influence of existing domestic policies. Existing policies can help to explain outcomes which are not in-line with the expectations of certain conditions. For example, the EU was often a net exporter of a good but it could have been the case that they were net exporters due to existing policies. Moreover, the opening of the market could threaten the effectiveness of these policies. As such, it makes much more sense for the EU to maintain domestic policies which create surpluses than to implement trade policies which threaten the implementation of the domestic policies.

Lastly, Odell dismisses relative power as a factor contributing to negotiated outcomes, but in these two case studies, it was the case that Chile accepted more than they likely would have with a more "equal" trading partner. This phenomenon was particularly apparent in the negotiations with the EU where Chile accepted the "negative list" approach and an outcome worse than GSP in some cases, just because an agreement with the EU was better than no agreement at all. Even in specific products relative power was apparent; Chile gave the EU much more access to their market in poultry for example than they were able to gain for their own poultry industry. In the U.S. agreement, the U.S. was able to use their relative size to push for the removal of the price band system for wheat. If the U.S. were a smaller trading partner, they probably would not have been able to push the PBS issue as much as they did and make it a "deal breaker" in negotiations. Political science theory has posited that relative size is important in negotiations and this case study supports this notion despite Odell's dismissal of it.

5.2 Cross Case Comparisons for the Selected Products

Next, it is important to assess the degree to which the independent variables were able to explain the outcomes in the selected case comparisons. It is important to note that once again,

these case studies show that the degree to which each independent variable influences the outcome is different from case to case. For one thing, the relative position in the market was relatively less important in determining the outcome for wheat compared to sugar in the U.S. agreement. Indeed, politics and the negotiating objectives of the U.S. were great determinants of the wheat outcome whereas negotiating behavior and market conditions were much more relevant for the sugar outcome. In fact, the sugar outcome would have been much different under different market conditions as a net exporter clause would not be possible if either country were an exporter and they were still trying to "exclude" it. Nevertheless, it is clear that these factors did have an influence on the relative market outcomes for the different products.

One important observation of each selected case study was the degree of specificity in the outcomes. All products, even within product goods such as wheat flour versus raw wheat, were treated differently suggesting that market conditions were very important for outcomes. Durum wheat was less sensitive for Chile than wheat flour and this decreased sensitivity was reflected in the outcomes with the U.S. This was the case for all selected products in both agreements. There were no selected products which had a uniform outcome. Even in the EU, when a TRQ was given, it was given to specific tariff lines and the other tariff lines within that product category were either excluded entirely or were subject to a different schedule. This means that although market conditions, negotiator beliefs and domestic politics may impact the negotiations for a particular good in general, the specific outcomes are very much tied to market conditions regardless of the category of liberalization or protection applied.

Nevertheless, other factors seemed to play a role in general treatment of a group of goods. Indeed, there was a marked difference in how wheat, sugar, dairy, poultry and wine in the EU agreement were treated compared to fish. Domestic politics and negotiator strategies very

much were involved in outcomes for the former goods. It was certainly their political sensitivity that gave all of those products exclusions as there were varying levels of production, consumption, net exports and yet they were all excluded in some way whereas fish was eventually liberalized.

Being defined as import-competing or export-oriented did not necessarily mean outcomes would be the same. For one thing, it depended greatly on which category the other party fit into as well. The fact that the U.S. and the EU are large consumers of wine did not result in a significant amount of market access granted to Chile, likely due to the competitiveness of the Chilean wine sector. Moreover, the potential of a sector to become more competitive seemed to have some influence as evidenced by the negotiated outcomes for both dairy and poultry. Neither industry was particularly well-developed in Chile at the time of the negotiations, however the potential for these industries was clear to the EU and the U.S. making outcomes more sensitive than was warranted by current market conditions. Additionally, the existence of competitive imports in a product area seemed to register a slight influence in outcomes. Were the EU not facing domestic competition already from Norway in salmon, outcomes for Chile may have been more favorable.

Based on interviews, negotiating strategies most certainly differed according to the product under discussion, and this certainly had an influence on outcomes. In sugar for example, the U.S. was so committed to no exclusions that they worked hard with Chile to come up with an outcome that would meet the no exclusions requirement while at the same time protecting a very sensitive sector. In the EU, it could be argued that their strategy in much of these specific product cases was simply to draw a line which could not be crossed. The relative outcomes are very indicative of “hands tied” tactics wherein Chilean negotiators could not have much

influence as EU negotiators claimed that they were not able to make better deals. In addition, Chile also pursued more aggressive strategies where appropriate, such as refusing to give up the wheat PBS until the very last moment, but also used a great deal of value creation where possible, particularly in the U.S. agreement.

5.3 Conclusions on Odell's Theory

It is clear that market conditions, negotiator beliefs/strategies and domestic politics and institutions were much more important determinants for specific products than for the agreements overall. The specificity of the outcomes combined with the method of treatment for these sensitive products were very clearly influenced by these independent variables. Nevertheless, the level of influence each of these independent variables had on the outcomes varied from good to good. Moreover, there were some factors which were not included in Odell's theory but were clearly important for negotiated outcomes. The "rules of the game" were important determinants of negotiator behavior and outcomes as were the existence of domestic policies. Moreover, relative power cannot be completely ignored in economic negotiations because it clearly influences negotiation strategies and what each party is willing to accept in a negotiation. These three factors do not involve constituents directly, but they do impact the negotiators stance and behavior towards the negotiations. As such, the findings of this thesis are influenced towards acceptance of Odell's theory but with reservations.

CHAPTER 6: LIMITATIONS, FURTHER RESEARCH AND CONCLUSIONS

The research presented has essentially served two purposes: to add to the existing ENT literature by way of case studies testing Odell's theory of economic negotiation, and to address the less researched but certainly relevant topic of agriculture as a sensitive issue in free trade agreements. The comparative analysis allowed for a unique characterization of the key differences in the U.S. and the EU in FTA negotiations over agriculture, while the selected product case studies reviewed the processes of identifying and understanding sensitivities in specific agricultural goods and the resulting treatment of these goods in FTAs. While valuable, this research has had various limitations. Moreover, more research needs to be done in this area in order to continue to address gaps in the literature so that it can be better understood what leads to outcomes in economic negotiations, particularly over "sensitive products". This chapter discusses the limitations, provides some suggestions for further research and briefly concludes the research findings.

6.1 Limitations of the Research

As with many studies that deal with potentially politically sensitive topics, this research was hindered a great deal by a lack of access to data. It was not possible to get transcripts for the negotiations, leaving the researcher to rely on interviews and publications regarding the negotiations rather than on original transcripts. As such, although it was possible to ascertain a general assessment of how the negotiations proceeded, it was not possible to know exactly how the negotiations developed on a timeline basis and the turning points therein particularly for each sensitive product. Given access to this kind of data, more in-depth process-tracing could have been undertaken.

Another data problem was that as it has been ten years since the negotiations, it can be supposed that interview data, although important and useful, is restricted only to what the

negotiators remembered and likely is subject to some biases after ten years of review for the FTA outcomes. However, much of this could not be helped because, as a European Commission bureaucrat put it, much of the information is still "classified" and although the interview participants were all very forthcoming, it is not possible to know what has been left out of the conversation. Furthermore, while it is possible to know who negotiated FTAs, it is not always possible to reach these negotiators and discuss the FTA negotiations as many have higher political appointments which demand their time and attention and others have since retired. And while some negotiators were willing to be interviewed and discuss the negotiations, they were not necessarily willing to fill out a survey regarding the negotiations because of lack of time, lack of interest, or an unwillingness to put their insights "on paper". Moreover, the lack of access to more people with influence in FTAs also led to an inability to properly use triangulation, an important component of case study methodology.

Aside from data availability, there were some inherent limitations in this research that can be associated with the research design. First of all, the focus on Odell was both a feature and a downfall of the study. It was a feature in that it allowed the research to be much more focused but it was limiting in that there are many other potentially acceptable theories that were not discussed but could have been valuable for understanding in the case study analyses. The negotiation process model and the discussions presented by Milner and Putnam regarding two level games were particularly relevant for such a study but as the purpose of the study was to test Odell's theory, it seemed inappropriate to discuss the case studies using these models.

One last limitation considered is that the research was focused on agriculture. Once again, this allowed the research to be more focused and it is certainly a valuable contribution to the relatively under-researched area of agriculture in trade negotiations; however, it limited the

scope of the research somewhat, particularly as the outcomes for sensitive agricultural products were not compared to products which were not sensitive. Moreover, because this research is focused on sensitive agriculture, it does not highlight potentially more sensitive topics in FTA negotiations. For example, a Chilean negotiator indicated that labor was much more difficult in the U.S. agreement than agriculture and yet this thesis does not address this difficult area at all. The next section will provide some possible suggestions for future research which can help to address gaps in the current research presented and provide a basis for other ideas that could expand upon the work offered in this thesis.

6.2 Suggestions for Future Research

First of all, many similar studies could be conducted that would help to address many gaps in this research. If it would be possible to have access to negotiators, it would be an excellent contribution to distribute survey's to these negotiators and build a database full of information regarding actions and reactions in negotiations, assessments regarding BATNAs, resistance points, negotiation strategies and tactics. Of course, as suggested by the limitations above, this might be difficult to achieve but if it were possible, it could provide the basis for a whole body of literature regarding negotiations and their associated outcomes.

Secondly, it would be useful to do a similar study to this thesis but base that study on a comparison of outcomes between the agriculture sections and the industrial sections for example. Annex 2 provides a background of why agriculture is contentious in liberalization debates, but there is no mention of why industrial products may be sensitive and thus a comparative study regarding the negotiations and treatment of two different sectors could prove to be interesting and useful. This kind of study could focus on testing a particular theory to determine if it is valid across sectors or it could simply help to illuminate how the two sectors differ in their product treatment and possible reasons why based on various literature from each sector.

Thirdly, more research certainly needs to be done in order to determine how outcomes really differ in FTAs. As shown throughout this thesis, it is often very difficult to classify outcomes as often multiple trade policies apply to one product. It would be valuable to have quantitative assessments in particular with regards to different negotiated outcomes as it could allow for more quantitative research to be done which can help in the identification of correlations. Indeed, current research in this area does not really allow for suitable comparative analysis.

6.3 Final Conclusions

This thesis has demonstrated that agriculture is indeed sensitive in free trade agreements and therefore outcomes for these goods are often unique and specific according to the sector. The treatment of goods in this sector ranges from exclusions to immediate tariff liberalization. In between, products may feature back-loaded tariff schedules, TRQs, or they may be required to make significant institutional adjustments in order to address issues of intellectual property, safety concerns, or other technical requirements. No matter the treatment of the sensitive good, relative gains often exist for each trading partner even if they are minimal. Chile was able to secure favorable outcomes for many of their agricultural goods. The U.S. agreement was much more favorable to Chile for the specific products but much of this was due to the use of integrative tactics between the U.S. and Chile compared to a more value-claiming approach used in the EU agreement.

While part of the reasoning behind negotiated outcomes can be attributed to Odell's theoretical independent variables, market conditions, negotiator beliefs and strategies, and domestic politics, there are a few other variables which cannot be ignored. The negotiation process and relative size of the negotiating parties cannot be ignored nor can the pressures that exist due to existing policies and institutions in the countries involved. Nevertheless, the

specificity of the tariff schedules serves as a solid basis for backing up Odell's prediction regarding market conditions affecting negotiations, but the general treatment of the sensitive goods is much more easily described in terms of the impacts of the negotiator behavior and domestic political conditions. Overall, Odell's theory is a competent basis for understanding what leads to outcomes in FTAs; the additional theoretical understanding of the impact of the institutional considerations in the negotiation process could however add to the comprehensiveness of this theory.

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APPENDICES

Appendix 1: European Union Member States, EU-15, Eurozone

European Union Member States	EU-15	Eurozone
Austria	X	X
Belgium	X	X
Bulgaria		
Cyprus		X
Czech Republic		
Denmark	X	
Estonia		X
Finland	X	X
France	X	X
Germany	X	X
Greece	X	X
Hungary		
Ireland	X	X
Italy	X	X
Latvia		
Lithuania		
Luxembourg	X	X
Malta		X
The Netherlands	X	X
Poland		
Portugal	X	X
Romania		
Slovakia		X
Slovenia		X
Spain	X	X
Sweden	X	
The United Kingdom	X	

Appendix 2: Tariff Elimination Schedules of the U.S. and Chile in the U.S./Chile FTA

U.S/Chile Free Trade Agreement			
	Name	Expiration	Scheme
	A	0	Immediately free
	B	4	tariffs removed in 4 equal annual stages
	C	8	tariffs removed in 8 equal annual stages
	D	10	tariffs removed in 10 equal annual stages
	E	12	tariffs removed in 12 equal annual stages
	F	0	Continue to receive duty-free treatment
	G	12	years 1-4: no tariff reduction; years 5-8: tariffs reduced by 8.3%/year; years 9-12: tariffs reduced by 16.7%/year;
	H	10	years 1-2: no tariff reduction; years 3-10: tariffs removed in 8 equal stages
U.S. Only			
	J	12	years 1-7: no tariff reduction; years 8-12: tariffs removed in 5 equal stages
	K	2	tariffs removed in 2 equal stages
	L	10	years 1-6: tariffs reduced by 5%/year; years 7-9: tariffs reduced 10%/year; year 10: free
	M	10	variable
	N	0	duty free
Chile Only			
	O	3	years 1-2: no tariff reduction; year 3: free
	P	3	year 0: tariff reduced by 80%; year 2: tariff reduced by 90%; year 3: free
	V	12	years 1-6: no tariff reduction; year 7: tariffs reduced by 3.3%; year 8: tariffs reduced by 21.7%; year 9: tariffs reduced by 40%; year 10: tariffs reduced by 58.3%; year 11: tariffs reduced by 76.7%; year 12: Free

Appendix 3: Tariff Elimination Schedules of the EU and Chile in the EU/Chile FTA

EU/Chile Free Trade Agreement			
	Year 0	0	Immediately free
	Year 7	7	tariffs removed in 7 equal stages
	Year 10	10	tariffs removed in 10 equal stages
Chile Only			
	Year 5	5	tariffs removed in 5 equal stages
EU Only			
	Year 3	3	tariffs removed in 3 equal stages
	Year 4	4	tariffs removed in 4 equal stages
	R	special	tariff concession of 50% of the basic customs duty
	EP	special	liberalization concerns ad-valorem duty only, specific duty linked to the entry price is maintained
	SP	special	liberalization concerns ad-valorem duty only, specific duty is maintained
	PN	special	no liberalization as these products are covered by denominations protected in the Community

ANNEXES

Annex 1: Competitive Liberalism and the Opening of the World Market

The following two chapters lay the groundwork for studying the two FTAs. Chapter four provides an economic and trade background of Chile, the U.S. and the EU at the time of the negotiations. Chapter five addresses the background of agriculture in negotiations as well as the sensitivities in agriculture for the three entities. These two chapters are essential in understanding the situation prior to the negotiations which gives us an idea as to the negotiation context and the negotiation process itself. It also gives us an understanding of why each of the entities decided to enter into trade negotiations and thus an idea of the alternatives for each of the entities.

A.1.1 Chile as a Leader in Liberalization

Chile is a country of many firsts: the first South American country to become a member of OECD, the first South American country to have a free trade agreement with the U.S., and the first of the Latin American countries to shift from an import substitution strategy to a free market and liberalization strategy. These are not the only reasons that Chile is unique; indeed, Chile sees themselves as somewhat of a trendsetter with respect to economic prowess and openness which may be made considerably easier due to the wide range of climate within Chile awarding the country a variety of natural resources and thus the ability to specialize in trading an assorted basket of goods rather than specializing in a few and protecting the rest.

Many have hailed Chile as a "miracle" because of the great success it was merited after following the advice of the "Chicago Boys" to open up the economy by privatization of many government owned firms, the implementation of liberal trade policies, and the removal of capital controls. Indeed over the last few decades since the end of the Pinochet era and the beginning of democracy in the late 80's and early 90's, Chile has seen phenomenal growth of over 5% on average per year. Chile has even come out of the global financial crisis mostly unscathed due to

stringent fiscal policies requiring savings of income from the government owned copper company, CODELCO, in times when the copper prices are high in order to stimulate the economy when necessary as was the case when the financial crisis began (OECD 2010). This section will highlight the impacts of the economic reform process within Chile from the 1990's as well as the current trade and macroeconomic regimes. For detailed accounts of the Chilean economic reform process or the "Chilean miracle" see Edwards 1993, Kurtz 2001 and Klein 2007.

A.1.1.1 Chilean Reform Impacts

The end of the 1980's saw the end of the Pinochet regime and the return to democracy for Chile. The first president elected in 1989 was Patricio Aylwin who decided to continue the neoliberal regime started by Pinochet albeit with a few more social programs. By the 1990's, "exports had become the engine of growth and the Chilean experience with trade reform was praised as a big success by the multi-national institutions and observers from different ideological persuasions" (Edwards 1993, 1374). This "engine of growth" continued through further tariff reductions throughout the 1990's as well as efforts to reduce inflation. By 1997, inflation was only 6.2%. While employment in agriculture continued to grow to its peak employment of 901,700 persons in 1992, inequality was rampant as many laborers were women who could only get seasonal agricultural employment. Additionally, by 1997 only 27.7% of land was owned by peasants (Kurtz 2001). The 1990's in Chile also saw the beginning of environmental regulation in Chile which had become greatly important due to the extensive use of natural resources.

Beginning in the 1990's but really taking hold in the 2000's, Chile has continued its neoliberal strategy by entering into over 20 trade agreements with over fifty countries. The earliest agreements made were partial preferential agreements with its South American neighbors

throughout the 90's. Chile was also a founding member of the WTO and has continually showed its commitment to multilateral trade progress. In the early 2000's, Chile entered into agreements with many of the economic powerhouses of the world including the U.S. and the European Union in 2003 and 2002, and China in 2005. The WTO report on Chile stated that "just over 92 per cent of Chile's total merchandise trade is carried out with preferential partners" (World Trade Organization 2009, viii).

A.1.1.2 Chile's Economic and Social Stability

As mentioned, Chile was the first South American country to become a member of the Organization for Economic Co-Operation and Development (OECD). According to the OECD news report regarding the membership attainment, Chile was being recognized for "nearly two decades of democratic reform and sound economic policies" (OECD 2010). In their agricultural policy assessment of Chile, OECD further insists that "the key to Chile's strong economic performance has been sound macroeconomic management, institutional and structural reforms, trade openness, and the prudent management of mineral resources" (OECD 2008, 1). Other reasons for economic success within Chile include Chilean Central bank autonomy, ideas (in the area of trade openness but also general support and autonomy of the people for the government), effective and reasonable tax policy, transparency on the part of the government, and willingness for the government to reduce poverty through social spending (DeShazo 2005).

With regards to macroeconomic management, Chile's macroeconomic stability is based upon three main pillars: an inflation targeting monetary policy regime (around 2-4%), a floating exchange rate, and stringent fiscal policy that requires a structural surplus. Another component of these pillars is the flexibility therein. For example, the low inflation target has remained a goal for the Central Bank in Chile; however, when the world economy began to slow in 2008, the government was able to lower interest rates in order to boost the economy despite its previously

tight monetary policy. The growth rate between 2003 and 2008 was around 4.8% indicating continued growth in the region (World Trade Organization 2009). Additionally, the way that Chile retains much of its structural surplus is by savings generated during high copper prices and profits earned by the state-owned copper company, COLDECO. Also important for Chile is the existence of a "solid banking system that is well regulated and supervised" and "increasing commercial and financial integration with international markets" (Marshall 2010, 15). Foreign direct investment was around 3% of the GDP in 2008 with much of this investment going to mining, electricity and communications (World Trade Organization 2009).

Economic growth is one of the most frequently cited statistics used to describe the "Chilean Miracle". Over the last few decades, the economic growth within Chile has been fairly high as the economy has become more open and efficient. Some economists argue that this growth has been harmful to Chile because it involves an unequal distribution of benefits. With regards to wealth distribution, one paper cited that the 10 richest percent of the Chilean population accounts for "nearly half the country's income" (Tucker 2006, 6). Despite the alarming inequality statistics, the human development index[27] ranks Chile as 44th out of the 182 nations and classifies the country under "high human development" which makes it the highest ranked with regards to human development for all Latin American countries (Human Development Reports 2009).

The total gross domestic product (GDP) in Chile comes from a diverse set of sectors (Table A.1.1). From 2003 to 2008, agriculture and forestry became a larger part of GDP, while mining, one of the most important sectors of the Chilean economy, became a smaller part of the overall GDP. Services had mixed changes with housing related areas such as construction and

[27] The human development index is a development measure that tests healthy living, education, and standard of living.

financial services growing, and government related services, such as education and public administration, decreasing. Overall, industrial manufacturing takes up the largest share of the economy; however it has experienced a small decrease over the time period reviewed. Many critics of the Chilean neoliberal strategy criticize the decreasing share of manufacturing as a consequence of their neoliberal strategy as the country moves to its area of comparative advantage in unfinished or raw goods such as minerals and natural resources including copper, wood pulp, frozen fish or fresh fruits. They argue that if Chile does not diversify and create more value added goods, then their growth will not be sustainable in the long run (Kurtz 2001).

Table A.1.1: GDP by Economic Activity for Chile, 2003 versus 2008

GDP by Sector (base year 2003)				
Economic Activity	Millions of 2003 pesos			
	2003	% of GDP	2008 [2]	% of GDP
Agriculture and Forestry	1,842,431	3.60	2,404,127	3.72
Fish	627,436	1.23	762,779	1.18
Mining	4,321,571	8.45	4,344,726	6.72
Industrial Manufacturing	8,398,990	16.42	10,200,496	15.77
Electricity, Gas and Water Utilities	1,461,211	2.86	1,138,643	1.76
Construction	3,531,382	6.90	4,829,432	7.47
Restaurants and Hotels	4,950,883	9.68	6,781,008	10.48
Transportation	3,540,881	6.92	4,713,877	7.29
Communications	1,170,554	2.29	1,824,618	2.82
Financial Services and Businesses	7,650,975	14.96	10,855,501	16.78
Real Estate	2,977,723	5.82	3,508,858	5.43
Education and health services	5,911,639	11.56	7,007,883	10.84
Public Administration	2,214,717	4.33	2,582,358	3.99
Subtotal	48,600,393	95.00	60,954,305	94.24
Less Bank Charges	1,740,067	3.40	3,004,893	4.65
Plus Value Added Tax Collected	3,770,274	7.37	5,435,900	8.40
Plus Import Duties	525,815	1.03	1,291,704	2.00
Gross Domestic Product	51,156,415	100.00	64,677,016	100.00

Source: ODEPA, 2010. Chile 2010, http://www.odepa.gob.cl/

A.1.1.3 Chile's Trade Regime

Economists have referred to Chile's current trade regime as "Regionalism" or "Additive Regionalism". This regime essentially involves entering into many regional or bilateral trade agreements in order to capitalize on a very open trade environment and to possibly bring about liberalization on a multilateral level. Chile has currently signed 23 preferential trade agreements (PTA's) with 59 countries. It has trading partners on all continents that were agreed upon as early as 1991 and as late as 2009 although the 2009 agreement with Turkey has not yet been implemented. Furthermore, Chile has 52 Bilateral Investment Treaties (BIT's) which have also been mentioned as a reason for Chile's liberalization strategy. According to a policy review by the WTO "Chile considers foreign investment an essential engine of growth and an integral part of its open economic policy" (World Trade Organization 2009, viii).

Because Chile already has such low tariff barriers with an effective tariff at around 1-2%, it would benefit most from liberalization at a multilateral level (Schiff 2002). However, since negotiations are somewhat cumbersome at the multilateral level, "preferential arrangements have been put forward as being a more practical and feasible route to reach broad liberalization" (Andriamananjara 2003, 1). The reasons that these bilateral agreements lead to broader liberalization is because once many agreements are made it is essentially like a web of agreements wherein benefits of trade agreements with one country may extend to another country not involved in the agreement; alternatively, if these benefits are not extended to another country with which trade is frequent, that country may want to enter into a PTA with the initial country in order to avoid the trade diversion effects of the exclusive PTA's (Andriamananjara 2003).

With regards to the effectiveness of this strategy, a World Bank economist and some U.S. economists have found that this regime has had mixed results for Chile. According to Maurice

Schiff of the World Bank, north-south agreements are more beneficial than are south-south agreements but a "welfare-reducing RIA [regional integration policy] can be turned into a welfare-improving one by lowering external trade barriers sufficiently" (Schiff 2002, 974). The empirical basis for Schiff's assessment of north-south and south-south trade agreements is a study by Harrison, Rutherford and Tarr wherein they determine trade policy options for Chile. They determine that market access is vital to the additive regionalism strategy employed by Chile. Furthermore they find that the reason that an Agreement with NAFTA would be better for Chile than one with MERCOSUR is essentially because NAFTA can allow for better market access than can MERCOSUR and additionally "trade diversion costs of MERCOSUR dominate the welfare effects for Chile even when improved access to MERCOSUR markets is incorporated" (Harrison, Rutherford and Tarr 1997).

The trade strategy in Chile involves a lot of trade promotion both in country as well as in the region. Chile wants to be the model for neoliberal success and also wants to continue to be that neoliberal success (Wehner 2009). As such, they spend resources to promote trade. With regards to agricultural trade promotion, The Chilean Ministry of Agriculture allocates 14 million U.S. dollars of its budget to promote its agricultural goods through its trade promotion authority, ProChile (Sotomayor 2007). In addition to ProChile, Chile Alimentos is also utilized to promote agricultural exports.

There are many reasons for Chile using this open trade strategy. One study by Benedicte Bull suggests that there were four reasons for Chile entering into so many trade agreements: 1) there were a lot of regional and bilateral free trade initiatives at the time that they first began entering into agreements, especially among their South American neighbors, 2) Chile was already fairly open and had little to lose by entering into more agreements, 3) Chile needed to

strengthen political ties after the Pinochet dictatorship, and 4) "negotiating agreements with other countries was a strategy to overcome opposition from groups likely to gain increasing influence when congress resumed its tasks, including that of endorsing trade policy" (Bull 2008, 203-204).

From another perspective, additive regionalism can also achieve some less obvious political goals. According to Leslie Wehner, Chile goes out of its way to be a leader of the neoliberal regime and a proponent for free trade not only for economic reasons such as greater efficiency, market access, or FDI, but also to meet foreign policy objectives. In particular, she lists three foreign policy goals that can be achieved through Chile's trade regime: to balance the power so that Latin America may not be as dependent on global powers, to bring about order and rules to global economic relations, and "to shape how the construction of economic integration should be in Latin America by promoting its own conception of the market welfare enhancer" (Wehner 2009, 7). Beyond the Power, Governance and Ideas promoted by Wehner, other foreign policy objectives may exist which include becoming an ally with the U.S. to promote the creation of the FTAA. At the same time, it can put Chile at a bit of a disadvantage if they become too dependent on the U.S. because of their FTA, then the balance of power might again go in the favor of the U.S. and may make it difficult for Chile to disagree on military or social issues.

Chile's trade regime agenda also includes extensive involvement at the multilateral level. As a member of seven negotiating groups within the WTO, Chile hopes that issues such as agricultural subsidies, trade liberalization, developing country market access, and the uses of anti-dumping can be discussed and moved forward on a multilateral level. According to the previously mentioned studies, Chile stands to gain a lot if liberalization were to occur on a multilateral level especially if it were liberalized in the area of agriculture where protectionism still persists. Chile stands to gain because the country is already very open so market access for

the goods in which they have a comparative advantage is the most important component of their trade regime.

With regards to tariffs, Chile has applied a uniform MFN tariff of 6% since 2003 with the main exceptions remaining in agricultural goods by way of simply higher tariffs and a price band system (PBS) for sugar, wheat and wheat flour, and, previously, oils. While the uniform low tariff puts it at a somewhat weaker bargaining position with regards to trade negotiations, it shows Chile's willingness to be an open economy and has helped it earn the spot of the 10th most economically free country in the world (The Heritage Foundation 2010). Furthermore, the uniform tariff is beneficial to Chile because "it sets effective protection the same for all sectors at the nominal protection rate" (Schiff 2002, 979) combined with the fact that it is simple and transparent, benefits can be realized by way of lower business and social costs including a decrease in corruption.

The price band system allows for an adjustable tariff rate wherein if the international price falls below a certain level or rises above a certain level, then the tariff applied to the product is adjusted accordingly. Within the upper and lower bound, the typical tariff is applied. This PBS has been under dispute a few times within the WTO and was ruled unfair in a dispute instigated by Argentina. As such, Chile has been ordered to either eliminate their PBS or to keep the applied tariff at MFN rates. It has been suggested that these price bands were being penetrated in any case by mixing oils and sugars so that food processors in Chile could get around the price band system (Chile Interview). As such, the PBSs were on the way out before the WTO ruling. Furthermore, in the U.S./Chile FTA, the PBS will be eliminated completely by the end of the 12 years and these goods will be completely free at that time at least with the U.S. and likely with Chile's other trading partners.

While some tariff barriers still exist, for the most part, they are fairly minimal. The real trade distortions in Chile are in Sanitary and Phytosanitary (SPS) measures as well as Technical Barriers to Trade (TBT). Chile has fairly high sanitary standards within their own country, which is considered to be essential for their agro-exporting model according to the study by Sotomayor, and the U.S. and other trading partners recognize the institutions Chile has in place to ensure that food is safe and sanitary. It is logical then that Chile would expect other countries to meet their safety and sanitary standards. However, it can be difficult to determine the difference between making food safer and the existence of trade barriers. According to the WTO SPS Information Management System database, Chile has implemented 361 new SPS requirements from May 1996 to August 2010. In 1999, Chile issued a SPS requirement for Avocados originating in California for reasons of "plant health" and "regionalization". Chile also has SPS measures for vegetables, melons, papayas, stone fruit, apples, pears, citrus fruit, poultry, trees, carrots, seeds, and other fruits, vegetables and meats that are specifically associated with the U.S. These requirements can be somewhat cumbersome especially since they often arise during times of high imports into Chile and for goods that can spoil. If the U.S. or another trading partner has a complaint about the SPS measure it usually cannot be resolved in time to benefit the exporters. This area really is one of the few sticking points where Chile continues to show protectionism via unfair border requirements.

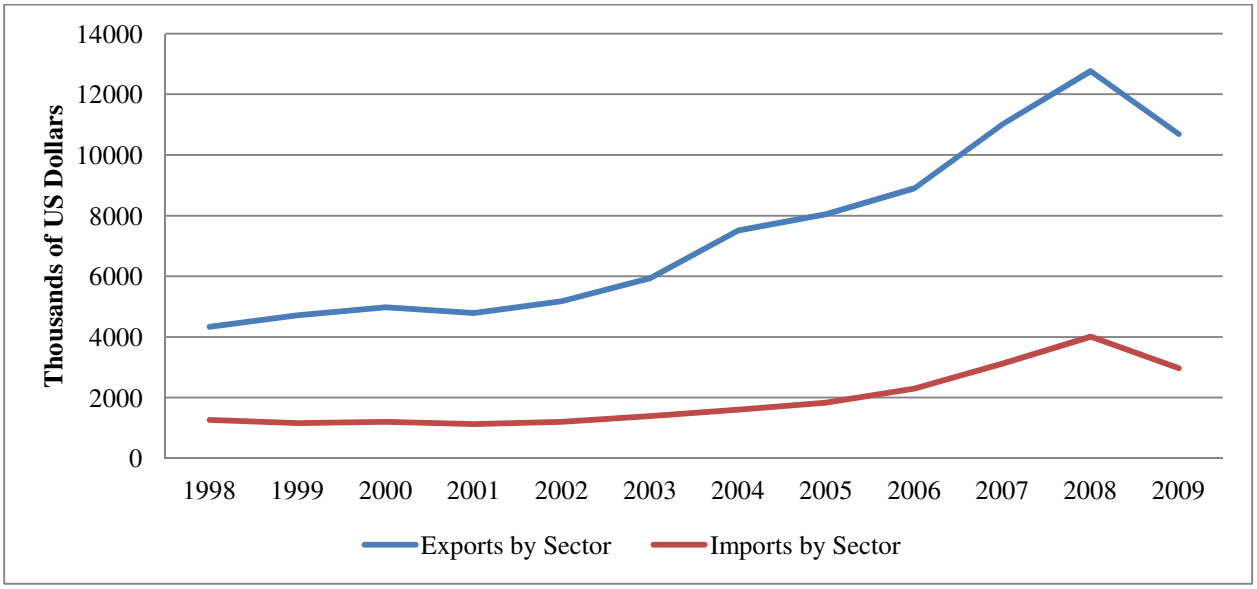
A.1.1.4 Trade Flows and Trading Partners in Chile

Chile has been fairly export oriented for some time largely due to their abundance of some resources, notably copper. Indeed, "by 1835, Chile was exporting 12,700 tons of copper a year, much of it to the United States" (Trade and Environment Database 1997). Much of the copper produced in Chile is sold to China, the U.S., France and South Korea as a primary product which is then converted into other copper goods (MBendi Information Services 2011).

While copper may have gotten Chile's "foot in the door" of many trading partners, it is somewhat interesting that this would be the transition into the neoliberal regime as most copper production is done by the state owned copper company. The share of copper exports to the U.S. to total copper exports from Chile has declined over the last few years. In 2006, as much as 19% of total copper exports from Chile went to the U.S. whereas in 2009, only a little under 8% of copper exports went to the U.S. (United Nations 2009). This suggests that Chile is diversifying its trade with the U.S. which is something many trade economists feared Chile would be unable to do. Chile's world copper trade exports have been declining since 2007 although it is still not certain if that is simply because of the downturn of the economy or whether they will go back up to higher levels of copper exports again in the future.

Aside from copper, Chile also exports a lot of agricultural natural resource goods such as wood products, grapes, and fish. In a list of the top 15 agricultural exports (which excludes fish), the top exports were fresh grapes (ranked 1st of the top 15 agricultural exports), wood products (in 7 different end products in the top 15 with 30.3% of trade of the top 15 agricultural exports), wine or beer (ranked 4th and 5th respectively), berries and avocados (6th and 11th), and pork and poultry products (7th and 14th) (ODEPA 2010). Chile remains self-sufficient in agricultural trade overall, mainly as a result of its comparative strength in fruits and forestry (Figure A.1.1).

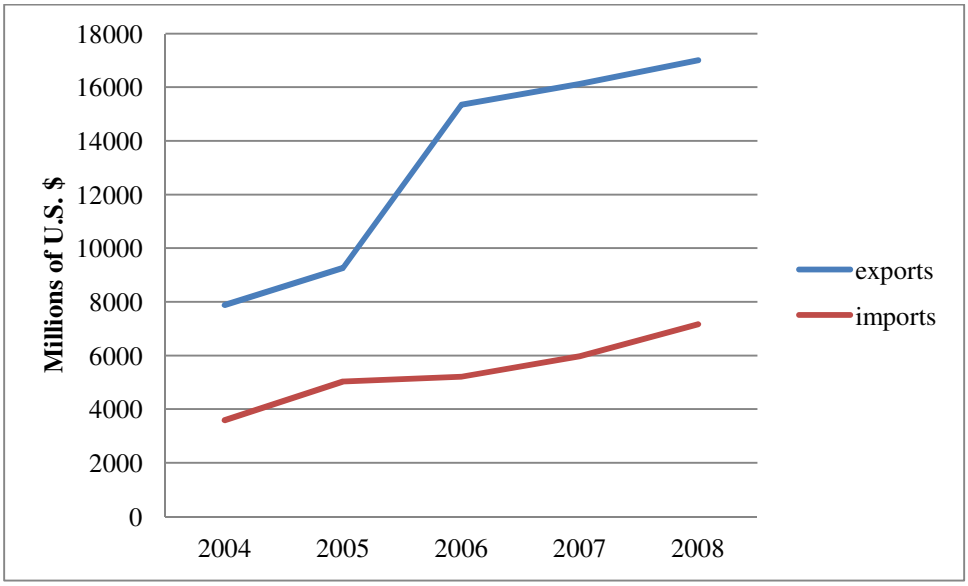
Figure A.1.1: Agricultural Trade in Chile, 1998-2009



Source: ODEPA, 2010, http://www.odepa.gob.cl/

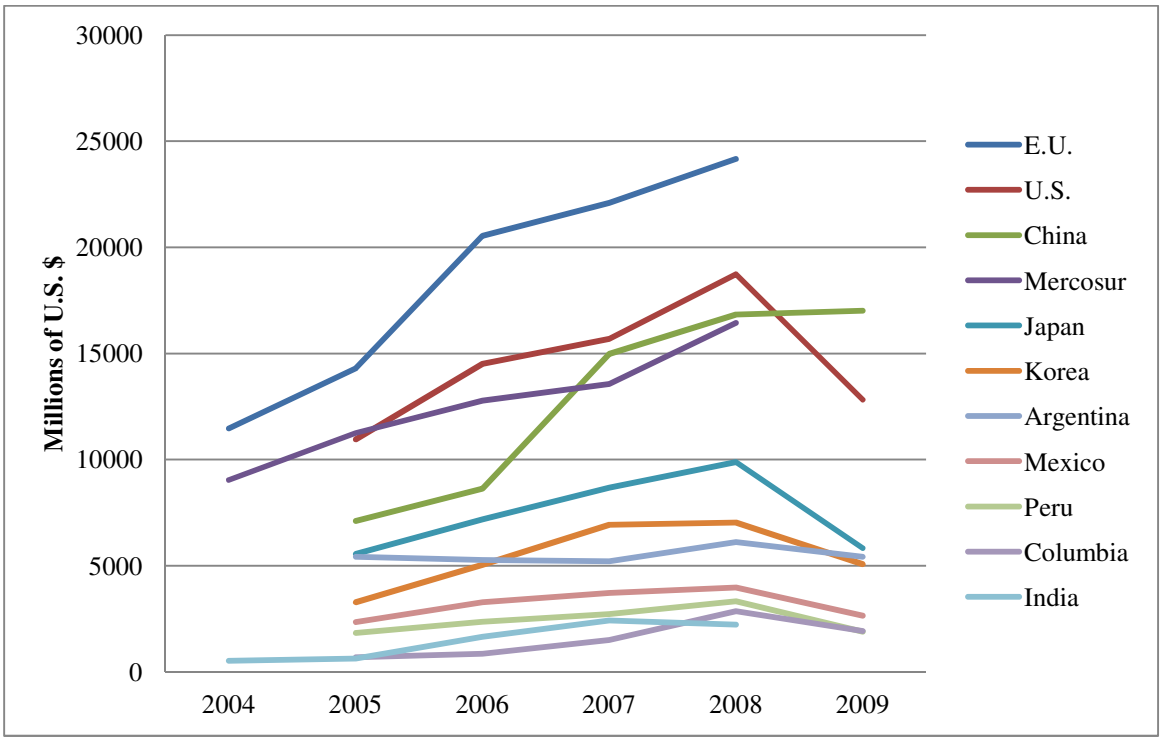
With regards to trading partners, Chile has 23 significant trading partners with which they have agreements according to the ProChile website. Chile gives MFN to everyone, including non-WTO members; however market access is important to Chile hence the proliferation of preferential trade agreements. In terms of value of total trade, the EU trades more overall with Chile although the exports to the EU have doubled, and in some cases tripled, the imports from the EU in 2004 through 2008 (Figure A.1.2). The U.S. is the second largest trading partner in terms of value of trade whereas China comes in a fairly close third. The other top trading partners for Chile are MERCOSR countries and other Asian countries such as Japan and Korea who are the 5th and 6th largest trading partners in terms of value respectively. Asian markets seem to be growing in general including trade with India. Overall trade with Chile's trading partners did slump in 2009 (Figure A.1.3). The lowest amount of trade is with Central American countries with the bottom 5 trading partners in terms of value coming from that area including Panama, Costa Rica, El Salvador, Cuba, and Honduras (World Trade Organization 2009).

Figure A.1.2: Total Chilean Trade with the EU, 2004-2008



Source: ProChile. 2010. http://www.prochile.cl/servicios/estadisticas/comercio_exterior.php

Figure A.1.3: Chilean Trade with Trading Partners, 2004-2009



Source: ProChile. 2010. http://www.prochile.cl/servicios/estadisticas/comercio_exterior.php

Liberalization seems to have had a small impact on trading partners. The case where the difference between pre-trade agreement trading levels and post-trade agreement trading levels is the most dramatic is China (Figure A.1.3). After their trade agreement was implemented at the end of 2006, trade increased drastically taking them from fourth in terms of total trade value to second in just four years. After the signing of the U.S. and EU agreements, trade increased for some time; however the slumping economy has seemed to put a halt to the upward trend, at least temporarily, in terms of values of trade.

In terms of trade balance, the evidence does show that Chile tends to have a higher trade balance with northern partners over southern partners. Chile has generally had a positive trade balance with the U.S., the EU, Cuba, Venezuela, India, Canada, Costa Rica, El Salvador, Honduras, China, Korea, Japan, Mexico, and Panama. Chile has had a negative trade balance with MERCOSUR partners in general which include Argentina, Ecuador, Columbia, and Peru. There have been mixed results for Pacific trade partners and Australia as well as a mostly negative trade balance with EFTA countries over the last 5 or 6 years.

There are a few explanations of why the trade balance is generally not in Chile's favor in the south compared to the north. One such reason is that northern entities are not competitors of Chile in Chile's area of comparative advantage mainly because Chilean agriculture is counter-seasonal to northern economies. In the south, however, they compete more with their neighbors and because the Chilean economy has shifted to more efficient areas through the process of liberalization, Argentina and Peru are able to provide more of the agricultural goods in which Chile is not self-sufficient such as grains and oils. Furthermore, these neighbors can be more competitive than the U.S. and European trading partners because of lower transportation costs and so Chile imports a lot of the import competing goods from the south. Chile's imports of

grains and other goods in which they are not self-sufficient has led to a negative trade balance with the south that they do not experience with their northern trading partners (Table A.1.2). Furthermore, the distance in general provides somewhat of a trade barrier between Chile and northern economies in that it would not be profitable for northern economies to flood Chilean markets with goods and the same applies to Chile's exports to the north.

Table A.1.2: Agricultural Trade Balance Comparison between North and South Trading Partners for Chile by Agricultural Sector, 2008-2009

Exports by Sector, 1,000's of U.S.$						
	North America		Europe		South America	
sector	2008	2009	2008	2009	2008	2009
Total Agriculture	3,788,158	3,369,615	322,237	219,316	1,748,215	1,395,310
Farming	2,501,652	2,432,776	301,198	214,607	1,042,929	874,979
Fishing	238,887	179,266	20,412	4,230	162,406	135,727
Forestry	1,047,619	757,573	627	480	542,879	384,605
Imports by Sector, 1,000's of U.S.$						
	North America		Europe		South America	
sector	2008	2009	2008	2009	2008	2009
Total Agriculture	670,599	373,945	6,555	8,438	2,671,018	2,087,579
Farming	584,625	315,284	5,182	6,695	2,075,200	1,475,872
Fishing	48,043	34,871	14	293	540,240	576,370
Forestry	37,931	23,790	1,360	1,451	55,578	35,337
Commercial Balance, 1,000's of U.S.$						
	North America		Europe		South America	
sector	2008	2009	2008	2009	2008	2009
Total Agriculture	3,117,558	2,995,670	315,682	210,878	-922,803	-692,269
Farming	1,917,027	2,117,492	296,016	207,912	-1,032,271	-600,893
Fishing	190,844	144,395	20,398	3,937	-377,834	-440,643
Forestry	1,009,688	733,783	-733	-971	487,301	349,268

Source: ODEPA. 2010. http://www.odepa.gob.cl/

A.1.1.5 Chilean Environment Going into the FTAs with the U.S. and the EU

As the negotiating time was the same for the U.S. and the EU FTAs, the Chilean domestic environment was the same for both agreements. In general, there was public support for continuing the liberalization strategy. One interviewee stated that the public were over 70% in

favor of FTAs with the U.S. and the EU. Indeed, the largest issues in the discussions were over agriculture. In a study by Valdez, agriculture is listed as Chile's main sticking point in trade negotiations; he pinpoints issues such as pressures for protection for import-competing goods, safeguards, other protectionist measures, and country of origin rules as tough issues in trade negotiations with any partner (Valdes 1995). This section will provide a literature review of the Chilean situation going into the FTAs both in terms of the benefits associated with negotiating with the U.S. and the EU and also in terms of the sensitivities that Chile deals with in trade negotiations.

Much literature exists regarding the comparative advantages/disadvantages of Chile going into a FTA negotiation with the U.S. versus MERCOSUR. Indeed, much of the comparative studies regarding the U.S. and the EU were done after both agreements had been negotiated and signed. Nevertheless, some of the studies draw general conclusions which can relate to both the U.S. and the EU. For example, Schiff determines that a north-south agreement is better economically than a south-south agreement although the article holds that "the smaller and poorer member country is likely to lose at the expense of the larger and more developed one" (Schiff 2002, 973-974). Nevertheless, Schiff argued that there were ways to make agreements between Chile and larger entities more beneficial for Chile. Indeed, the success of FTAs with the U.S. and the EU were said to rely on the ability of Chile to secure market access in U.S., EU, and EFTA markets and the ability of Chile to keep the costs of country of origin labeling (COOL) and intellectual property rights down. This article agrees with other assessments which state that a Chilean agreement with MERCOSUR or Andean Pact countries would not be as beneficial for Chile. Indeed, Valdes determines that a NAFTA agreement would be better than one with MERCOSUR because "its macroeconomics are more stable…and the

adjustment costs would be smaller" (Valdes 1995, 1296). He further states that an association agreement with MERCOSUR might be better for Chile than a full agreement so that Chile would not be subject to the tariff rules of MERCOSUR. Harrison, Rutherford, and Tarr also find that NAFTA would be a better option for Chile because it provides sufficient market access whereas the trade diversion costs of MERCOSUR are too high for it to be highly beneficial to Chile.

The Schiff article discusses different issues with regards to joining these agreements including issues of credibility, political issues such as security, and current protection issues. With regards to agriculture, Schiff discusses how the products in which Chile has a comparative advantage are highly protected in many markets so in order to reduce these protections, Chile must also be willing to make sacrifices with regards to its import competing goods such as grains, oils, and sugar. They further recommend in negotiating the agreements that Chile be willing to drop the price band protection in favor of no exclusions in the agreements. The article concludes by reinforcing the thoughts of the other studies that the key is market access improvement and that Chile would benefit as well by lowering their tariff even more.

Chile did take the advice of many of the economists with regards to its approach to the free trade agreements. In the 1990's, Chile began preliminary talks with NAFTA but was held up by the U.S. not having Trade Promotion Authority (TPA) which would have allowed easier passage of the bill and the bill, if passed, would be in its final form rather than face amendments by the houses of Congress. So rather than try to work out an agreement with the region as a whole, Chile decided to get an agreement by "going through the back door". The first trade agreement was with Canada in 1996. Mexico was the next step through the backdoor and that agreement was signed in 1998. With TPA in the realm of possibility, the U.S. wanted to get serious about talks regarding a trade agreement not just with Chile but also with their neighbors,

Peru and Columbia. Peru and Columbia broke the joint negotiations after only a few rounds and the U.S. continued through a total of 14 more rounds of negotiations with Chile before an agreement was reached in 2003.

Chile was not only negotiating with the U.S. and the EU in the early 2000's. Indeed, an interviewee indicated that the proposals given to the U.S. were not likely unique but rather much like the ones given to the EU and Korea with whom they were currently negotiating. Additionally, Chile was ready with a policy network to bring about what they wanted in the agreements. The Chilean negotiators themselves, a government organization called DIRECON, asked producer groups to communicate with their counterparts in the U.S. and then bring what they could agree upon to the table. This approach was one of the main differences between the U.S. and the EU negotiations. It is much harder to connect with producer groups in the EU due to the organization and language barriers that come with dealing with 15 different countries. Nevertheless, the producer groups in Chile were very involved with their U.S. counterparts. The farm organizations in Chile that were most involved included: the National Agriculture Society (SNA)[28], the Producer and Commerce Federation (Confederacion de la Produccion y el Comercio), the National Confederation of Cooperative Farmers (Confederacion Nacional de Cooperativas Campesinas), the Export Association (ASOEX), the Federation of Fruit Producers (FEDEFRUTA), Association of Poultry Producers (APA), Federation of Meat Producers (FEDECARNE), Federation of Milk Producers (FEDELECHE)[29], the Association of Industrial Dairy Products (ASILAC), and the Federation of Food Process and Agri-Industry of Chile

[28] SNA represents 27 producer groups in Chile. The exceptions are fisheries and forestry but it does include wine and most "traditional crops" as well as meat and milk.
[29]FEDEFRUTA, APA, FEDECARNE, and FEDELECHE are all underneath SNA.

(FEPACH)[30]. SNA also personally went to some U.S. senators in order to work out mutually beneficial agreements.

In addition to the producer groups working together, side rooms were implemented beginning in the 10th round held in Miami in the U.S. negotiations. For the most part, groups could come to a reciprocal agreement. In some areas, Chile did not really push for protection, like in rice; because the U.S. wanted protection for their rice producers, Chilean rice producers got protection as well due to reciprocity. Furthermore, producers from different groups were able to be heard because they set up three side rooms: large producers, labor, and small and medium enterprises. If an agreement could not be reached between producer groups in the side rooms or otherwise, it would be dealt with by the main negotiators. Interestingly, there were no side rooms in the EU negotiations. Producer groups did not travel with the negotiators from the EU side or take part in the actual negotiations with Chile. According to EU representatives, the negotiators knew what the producers wanted without them being there as this was determined before negotiations.

With regards to Chile's tactics during the negotiations, they wanted to foster a feeling of trust between all of the negotiators and the producers. Indeed although there was this environment, at times it was not extremely beneficial for the Chilean negotiators to let the producer groups know how things were going. In these instances, the producer groups from the Chilean side would occasionally go first to the U.S. and EU negotiators to ask how things were going so that they had something to bargain with when next talking to their own negotiators (Chile Interview). The U.S. side had one negotiator whereas the EU side reportedly had four different people to talk to regarding agricultural market access in the negotiations. This made the

[30] ASOEX, ASILAC, and FEPACH are all part of SOFOFA which is the Federation of Chilean Industry.

environment less personal with the EU but the producer groups were still able to somewhat achieve their purpose of understanding where the negotiations stood so that they could put pressure on their own negotiators.

One benefit to the Chilean side of the negotiations is that they knew and understood the political and economic situation within the U.S. and the EU. According to an interview with Chilean negotiators, Chile understood the situation in the U.S. much more so than the U.S. understood the situation in Chile whereas the EU was also fairly well aware of the Chilean environment. Chilean negotiators knew that the U.S. did not have much room to maneuver based on constituencies, whereas the U.S. probably did not know that Chile was already somewhat willing to part with the PBS. The EU knew that Chile wanted market access and to maintain protection for their sensitive agricultural products but also did not want too many requirements in terms of SPS, environment or labor. The EU was okay with letting Chile maintain their protection partly due to their belief in progress at the multilateral level rather than bilateral level and partly in return for more in depth discussions of non-tariff barrier issues.

Another strategy employed by Chile was to negotiate agriculture along with market access rather than as a separate issue. For a country with such a diverse market package, it is better to argue market access as a package rather than to just focus on one small aspect within agriculture. The U.S. wanted to negotiate agriculture separately though and so they did but the market access negotiator was also the agriculture negotiator. For the EU, it was not as much of a problem especially since Chile already had an existing institutional agreement with the EU. Their so-called "Community Co-Operation Framework Agreement" dated from 1990 and there was already significant trade and investment flows between the two countries making tariffication not as big of an issue.

With regards to agricultural negotiations in both agreements, an offensive approach was taken with regards to export oriented products whereas a defensive approach was taken for import-competing goods. Although Chile was willing to give up the PBS going into the negotiations, they were not simply going to give it up if they did not have to yield in this area. However, it provided a good way to bargain for something else that Chile wanted like to avoid labor or intellectual property restrictions. In Chile, traditional agricultural production (cereals and sugar) was becoming less important as the product mix was pushing along Chile's liberalization strategy. Indeed, the country had already re-oriented itself towards export oriented agriculture wherein it was much more important to produce a diverse set of high value goods rather than to continue to try to produce those goods not within their comparative advantage.

From the Chilean perspective, a trade agreement with the EU was desired for a lot of the same reasons that an agreement with the U.S. was desired. Although in the case of the EU, Chile knew that it would be harder to get the EU to open up in the area of agriculture where it would really benefit them. Nevertheless, feasibility studies showed that an agreement with the EU would be beneficial for Chile (Harrison et al. 2001, Nowak-Lehmann et al. 2005, Valdez 1997, etc). Nowak-Lehmann and her colleagues qualify however that the gains from an agreement with the EU may be eroded if the EU subsequently makes agreements with Chile's southern competitors.

Overall, Chile was very receptive to trade agreements with the U.S. and the EU. It sought to institutionalize existing trade relations including the Generalized System of Preferences (GSP) which was at the time granted by both the U.S. and the EU to Chile. This goal mainly related to garnering more access to EU and U.S. markets for its agricultural goods. While Chile would have liked to avoid more provisions regarding SPS, intellectual property, labor and the

environment, these were significant bargaining tools in order to gain the market access that they really wanted from the two large economic entities.

A.1.2 U.S. Under a Regime of Competitive Liberalism

The opening quote for their WTO trade policy review sums up the U.S.'s view on trade quite nicely:

> "For more than 60 years, the United States has pursued a policy of trade liberalization—seeking open markets and expanded international trade—based on the belief that reducing trade barriers creates jobs, advances economic reform and development, and reduces poverty worldwide" (World Trade Organization 2001, 5).

Indeed, the U.S. along with the EU established the General Agreement on Tariffs and Trade (GATT) which would be the basis for multilateral trade and its corresponding institution, the WTO. The report states that the U.S. pursues regional and bilateral trade areas in order to further liberalize trade and to complement the efforts made at the multilateral stage. Indeed, the report states that "by moving on multiple fronts, we spur more rapid trade liberalization" (World Trade Organization 2001, 5) showing very clearly the idea behind the U.S.'s trade regime under Bush known as "competitive liberalism". This regime entails the U.S. entering into many trade agreements in order to push along progress at the multilateral level, to facilitate gains in the area of market access for agricultural goods, and to advance environmental and labor issues.

Interestingly, this trade regime would not have been possible without Trade Promotion Authority (TPA). It has been suggested that negotiating trade agreements with the U.S. is fruitless without the existence of TPA. Without TPA, Congress has the ability to make changes to the trade bill even after it has been approved by both governments in negotiations. As such, the trading partner may not want the agreement after it has been through changes in both houses of congress. Furthermore, this reduces credibility on the part of the U.S. negotiators because they may say one thing and congress decides another making a deal particularly difficult to make.

However, Clinton did not have TPA because some think that it gives the executive branch too much power in trade negotiations. Those congress people who have constituents that are particularly against FTAs would especially like the ability to make changes to such a bill in order to garner greater approval from their constituents. Of course, even with TPA, the executive branch must hold consultations with various committees and stakeholder groups but it is impossible to make everyone happy all the time. Nevertheless, TPA is a very important component of the U.S. trade regime when pursing competitive liberalism (GAO 2007).

The U.S.'s trade regime also includes various preferential trade liberalization measures aimed at assisting less developed countries (LDC) to extend "the benefits of trade liberalization to the developing world and foster their further integration into the multilateral trading system" (World Trade Organization 2001, 6). These measures include the GSP, the African Growth and Opportunity Act, the Andean Trade Preference Act, and the Caribbean Basin Trade Partnership Act (World Trade Organization 2001). These measures often become obsolete of course with the created of a PTA as these typically solidify this preference or improve upon it. This does not mean that the U.S. has to give a LDC a comparable agreement and as such a LDC may be taking a risk when entering into FTA negotiations with the U.S. because the U.S. will demand the LDC open their markets in order to keep this preferential treatment (U.S. Interview).

Of course the U.S. trade regime also includes considerable safety nets for the portion of the population who are negatively affected by trade. Indeed, the Trade Adjustment Assistance program exists to help firms and industries who are negatively affected by trading by providing training, alternative job opportunities and payments of up to $10,000 (Hanrahan, Becker and Jurenas 2002, 4). Also important for agricultural producers is the distribution of subsides which

help with income support even if they are not directly related to trade (these subsidies will be described in more detail in annex 2).

A.1.2.1 U.S. Economy, Trade Flows and Trading partners

Unlike Chile, the U.S. is much less reliant on agriculture as a major component of Gross Domestic Product (GDP) and trade. Indeed, in 2003 and 2008 (in order to be comparable to the Chilean data), agriculture, forestry, fishing and hunting accounts for less than 1% of the GDP whereas the combined sectors account for almost 5 percent in Chile in 2003 and 2008 (Tables A.1.1 and A.1.3). Indeed, the largest contributors to GDP in the U.S. include manufacturing, real estate, business services and government with each contributing over 10% of GDP. Additionally, an average of only 1.5% of the U.S. workforce has been employed in agriculture and related industries between 2004 and 2009 (US Bureau of Labor Statistics 2010).

Table A.1.3: GDP by Economic Activity for the U.S., 2003 versus 2008

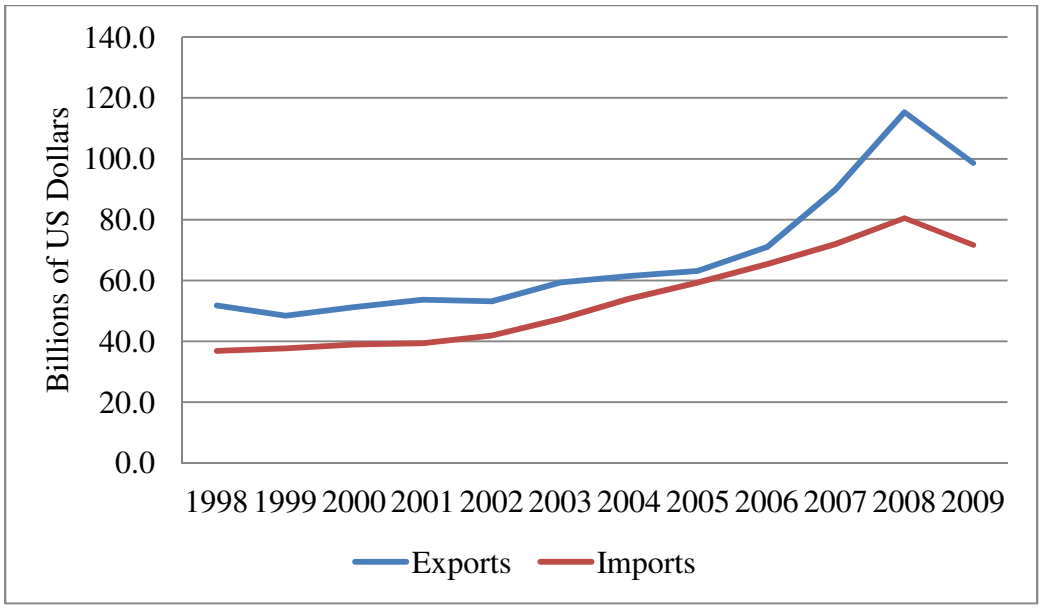
GDP by Sector (base year 2005)				
Economic Activity	Billions of $U.S., %			
	2003	% of GDP	2008	% of GDP
Agriculture, forestry, fishing, and hunting	115	0.92	132	0.95
Mining	231	1.86	199	1.43
Utilities	208	1.67	221	1.59
Construction	619	4.97	552	3.97
Manufacturing	1,405	11.28	1,647	11.86
Wholesale trade	681	5.47	762	5.49
Retail trade	819	6.57	823	5.92
Transportation and warehousing	318	2.55	388	2.79
Information	486	3.90	643	4.63
Finance and insurance	948	7.61	1,117	8.04
Real estate and rental and leasing	1,482	11.90	1,704	12.27
Professional and business services	1,347	10.81	1,575	11.34
Management of companies and enterprises	226	1.81	222	1.60
Administrative/support waste management/remediation services	332	2.66	395	2.85
Educational services, health care, and social assistance	909	7.30	1,038	7.47
Arts, entertainment, recreation, accommodation, and food services	454	3.64	497	3.58
Other services, except government	315	2.53	325	2.34
Government	1,565	12.56	1,647	11.86
Total Gross Domestic Product	12,459	100	13,885	100

Source: U.S. Bureau of Economic Analysis. 2010. Survey of Current Business. May 2010. Internet site: http://www.bea.gov/Industry/Index.htm

In terms of trade for all goods and services, the U.S. has had a trade deficit since 2000 and that deficit has been between $600 and $760 billion from 2004 through 2009. This deficit is due to the U.S. being a net importer of goods. Service exports from the same time period were from $50 to $136 billion (US Census Bureau 2010). The U.S. has however remained a net exporter of agricultural goods and exports of agricultural goods accounted for an average of 8.5% of all exports from 1998 through 2009. Like Chile, there was a drop-off of agricultural

exports from 2008 to 2009 likely due to the worsening economy (Figure A.1.4). However, the scale of agricultural exports and imports in the U.S. is much larger than that of Chile.

Figure A.1.4: Agricultural Trade in the U.S., 1998-2009



Source: U.S. Department of Agriculture: Economic Research Service. 2011. "Foreign Agricultural Trade of the United States (FATUS)." Internet site: http://www.ers.usda.gov/data/fatus/ and Foreign Agricultural Service. 2011. "Global Agricultural Trade System." Internet site: http://www.fas.usda.gov/gats

A.1.2.2 U.S. Environment Going into the U.S./Chile FTA

At the time of the negotiations, the U.S. and Chile were both facing pressures with regards to the FTA outcomes. In the U.S. there was anti-trade sentiment felt (mainly from labor and environmental groups unhappy with NAFTA) but at the same time, there was a fear that the U.S. was falling behind with regards to involvement in the international economy. Furthermore, progress at the multilateral level was difficult to achieve due to differences of opinion between the developed and developing countries. As such, Bush was able to get TPA in order to push along his trade policy known as “competitive liberalism” Falling behind the rest of the world and multilateral trade progress was not the only foreign policy reason to pursue a competitive

liberalism strategy. Indeed, two important foreign policy strategies in pursuing FTAs are to strengthen strategic relationships and to promote reform in partner countries (GAO 2007, 3).

As a developing country in the southern hemisphere, Chile was part of many groups often opposed to the U.S. in multilateral trade talks including the Cairns Group whose purpose is to push forward agricultural trade reforms. As such, they could prove to be a useful ally at the multilateral level. Furthermore, they would provide an important link to the South and to Latin America which would be crucial for FTAA talks. The FTAA was important for the Bush administration because it was "intended to go beyond NAFTA to encompass all trade among all of the region's countries, and eventually supersede the panoply of current regional FTAs and those that are being negotiated" (CRS 2002, 7).

Another reason for entering into more trade agreements was of course to avoid the trade diversion costs being felt as the world shifted to a global policy of additive regionalism. Chile was already in trade negotiations with the Korea and the EU and as Canada and Mexico already had agreements with Chile, the U.S. wanted to avoid the trade diversion costs associated with their northern competitors making agreements with Chile. The more preferential access Canadian, European and Korean farmers had to the Chilean market, the fewer opportunities American farmers would have to enter in the Chilean market. This was especially worrisome as much of U.S. production is not competitive with Chile's southern neighbors meaning their main competition in Chile is their northern competitors.

The U.S. strategy in trade agreements can be a bit more aggressive than the Chilean approach. In fact, the U.S. is said to have given Chile, and rumored also other trading partners, a proposal that is even worse than what the country is already getting because it does not usually take into account GSP wherein developing countries can have a better trade environment with

developed countries simply because of their development status. According to a Chilean negotiator, there are typically around 4 proposals from the U.S. Chile was very pleased with the final U.S. proposal and some rank the U.S./Chile FTA as the overall best FTA that Chile has. In fact, many U.S. congressmen thought Chile may have gotten too good of a deal because they stressed that the Chilean FTA would not be a model for other FTA's during the Chilean/Singapore FTA enactment debates on the Congressional Record.

The U.S. took an interesting strategy when negotiating with Chile as it began the negotiations with no exclusions. Everything would be free by the end of the phase out period for both countries. For many agricultural goods such as sugar, this approach is usually not within the realm of possibility. In fact, the U.S./Chile FTA is the only FTA in existence without exclusions. However, the negotiating teams went about this process in a very clever manner. For example, in sugar the negotiated outcome was that if either country is a net-exporter of sugar, then sugar would come into the trading partner country completely free. As neither the U.S. nor Chile are net exporters of sugar, it is de facto excluded while appearing to be already completely free. It is interesting that sugar was de-facto excluded as it was identified by a U.S. negotiator as one of the most sensitive products in U.S. FTA negotiations with Latin America whereas Chile's "sensitive" products were not excluded. In reality, neither Chile nor the U.S. were too worried about no exclusions since neither party was likely to flood the markets of the other; however, that does not mean that they went with a completely easy going strategy given their constituency constraints.

A.1.3 The EU as a Multilateralist

In an interview a representative of the European Union indicated that the EU would much rather that liberalization and trade reform be made at the multilateral level rather than the bilateral level. Indeed, this assessment was backed up by the trade policy review submitted by

the EU. They indicated that "an open and strong multilateral trading system is the best guarantee against the threat of unilateralism and constitutes one of the key tools to manage the process of globalization" (World Trade Organization 2002, 8). Furthermore, all bilateral and regional initiatives by the EU are in place to "contribute to and strengthen the multilateral system" (World Trade Organization 2002, 15). Indeed, much of trade policy under the Prodi Commission from 1999 to 2004 related to progress at the multilateral level (external policy) within the framework of Doha and the various multilateral trade rounds maintaining a careful balance against the internal EU market and expansion of the European model (European Commission 2004).

Trade policy in the EU is governed by Article 33 of the EC treaty within the Common Commercial Policy. According to the WTO trade policy review submitted by the EC, "the commission ensures the uniform representation of EU trade policy views at both bilateral and multilateral level, assisted by the consultative Committee…composed of representatives of the Member States" (World Trade Organization 2002, 7-8). Of course, all trade policy is implemented, adjusted and reviewed by the trade Directorate General (DG). Trade negotiations may, however involve other DGs including the Agricultural DG and the Enterprise and Industry DG among others (EU Interview).

Interestingly, trade policy in the EU "should be seen in the context of the overarching objective of sustainable development set out in Article 2 of the Treaty on European Union, as well as Article 6 which requires environmental concerns to be integrated into all EU policies-including trade policy" (World Trade Organization 2002, 8). This means that the EU must complete Sustainability Impact Assessments (SIAs) for all of its trade negotiations. The SIA includes information regarding economic, social, and environmental sustainability on the whole as well as for particular sectors such as agriculture, mining, or forestry. Indeed, the assessment

hopes to “optimize the outcome of the trade measures, with the definition of flanking measures aimed at mitigating any negative impact and enhancing any positive repercussions of the trade measures” (PLANISTAT-Luxembourg 2002, 17).

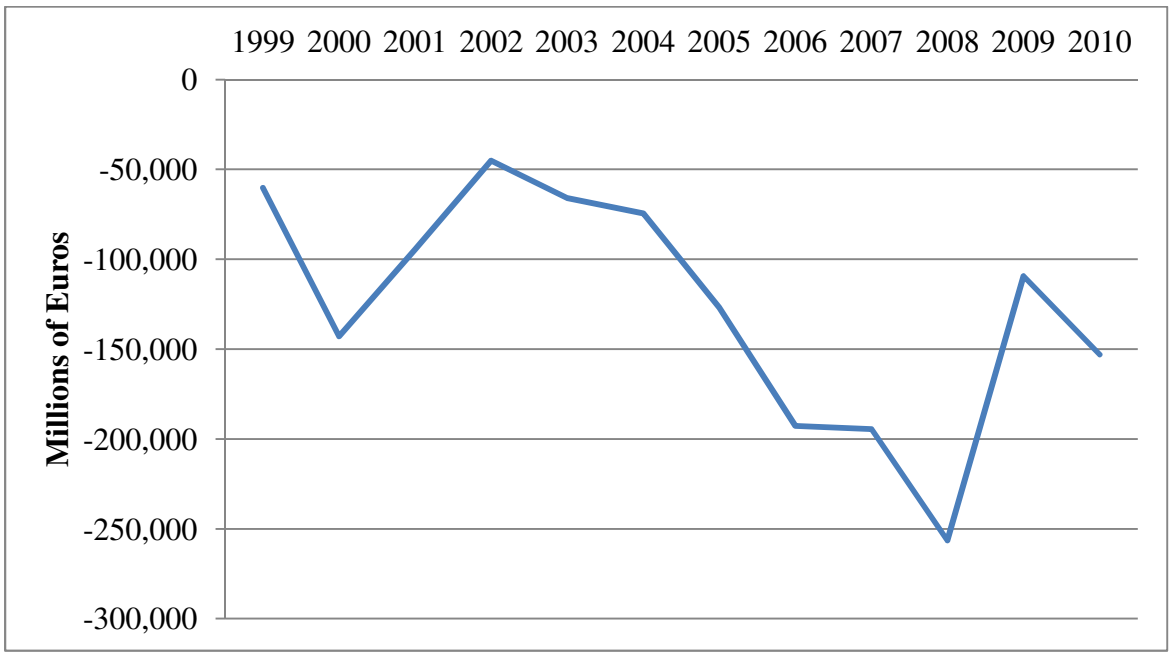
A.1.3.1 The EU Economy, Trade Flows and Trading Partners

The EU is a very large participant in the global economy. Indeed, the EU is the largest importer of services and contributes almost half of all foreign direct investment (FDI) flows in the world. Furthermore, many of the western European countries count themselves among the top ten importers and exporters outright including Germany, the United Kingdom and France (World Trade Organization 2011). At the time of the EU/Chile FTA negotiations, the EU only included 15 countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom. The EU has extended to 27 member states since May 1, 2004 (European Commission 2011) to which the Chilean agreement now applies. The monetary union, known as the Eurozone, has not been adopted by all 27 member states, however, with ten states currently maintaining their own monetary system (see Appendix 1 for a breakdown of the EU-15, EU-27 and Eurozone members).

In 2009, the EU ranked first in world trade in both merchandise trade and commercial services trade. The share in world total merchandise exports from the EU was just over 16% with the majority of exports consisting of manufactured goods (81.3%). The share in world total merchandise imports was even higher at 17.41%. These imports were also a majority manufactures (60.6%) with fuels and mining products constituting 27.7% and agricultural products constituting 8.4%. In the commercial services trade sector, the EU share in world total exports was over 26% with the share of world total commercial services imports at 23.55% (Wordl Trade Oorganization 2011).

Interestingly, the EU has been a net importer from 1999 all through 2010 (figure 5). Within the EU, only seven member states have had a consistent trade surplus from 1999 to 2010: Belgium, Denmark, Finland, Germany, Ireland, the Netherlands, and Sweden. The Czech Republic did have a trade deficit from 1999 until 2004, thereafter garnering a surplus. Alternately, Italy had a trade surplus up until 2003 and thereafter had a trade deficit which was at some points quite large (over 20 billion in 2006 and 2010) (Eurostat 2011).

Figure A.1.5: EU Trade Balance, 1999-2010



Source: Eurostat. 2010. "Share of EU in the World Trade." Internet site: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

Outside of the Eurozone, much of the imports and exports are to and from the United Kingdom and the United States. The United Kingdom is part of the EU but maintains its own monetary policy and as such is outside of the Eurozone (Appendix 1). The top 20 main trading partners are shown in table A.1.4. The countries highlighted in blue are those with which the EU has had a trade surplus with since 1999. The EU has had a very favorable trade balance in particular with the UK and the EU. Trade with the EU members not included in the Eurozone has

been both greatly positive and fairly negative during the time period analyzed. The EU has had a significant trade deficit with China however with China's imports exceeding the EU exports by as much as almost 120 billion euros in 2008. Russia, Japan, Libya, and Norway have also managed to export more to the EU than they imported from the EU. In terms of absolute value, however, the top six exporters to the EU include the UK, the U.S., China (except Hong Kong), Russia, Switzerland and Japan (Figure A.1.6). On the other hand, EU exports go predominately to the UK and the U.S. Nevertheless, China, Russia, Switzerland and Poland are important export markets for the EU (Figure A.1.7).

Table A.1.4: Trade Balance of EU Top Trading Partners, Millions of Euros, 1999-2000

Partner\time	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Extra-Euro area-16	26017	-29491	38153	90887	63649	65092	6894	-19281	9796	-52675	15445	-8637
United Kingdom	27520	28581	46898	55512	55539	60499	50417	50021	61551	55711	48597	47611
United States	20908	30251	41481	58088	56923	60805	65975	74348	63927	49942	36518	52804
China (except Hong Kong)	-21604	-32771	-32550	-32708	-40386	-53000	-75355	-91184	-112335	-119749	-88652	-114027
Russia	-10960	-25819	-20330	-17207	-20153	-22492	-35139	-43534	-34682	-44035	-34232	-46776
Switzerland	12302	13310	13234	11928	12545	12902	12615	15208	15065	16612	13796	19565
Poland	10069	9612	8953	9356	7441	9486	12971	17865	23737	27178	15162	16626
Czech Republic	1109	2090	2205	1458	756	2037	1768	1165	345	-2636	-6621	-8230
Sweden	-59	209	1223	1358	1537	2075	2797	2188	3514	1933	3267	4908
Japan	-28793	-33001	-24706	-20113	-21397	-21436	-19369	-22820	-24842	-23767	-15201	-16140
Turkey	4576	10880	896	3705	5470	8919	9691	9841	9005	10248	8519	17151
Hungary	1007	1167	-617	22	742	1179	983	1876	1241	2264	-2490	-3217
Norway	-5559	-14886	-14214	-16550	-18598	-17472	-21348	-25803	-20317	-33359	-22080	-22865
Denmark	2252	1226	2218	2374	1160	432	2657	3423	5541	4450	163	2519
Brazil	633	-978	228	-1319	-5220	-5741	-6150	-7428	-9731	-8203	-3080	-927
India	270	-215	-784	406	-194	392	1662	1717	3549	1775	3155	2758
South Korea	-4917	-5188	-3683	-3226	-5644	-7790	-9642	-12324	-10908	-8465	-5660	-4858
Romania	515	1057	1361	1348	1779	2669	4679	7638	10687	12236	4396	4445
Algeria	-2556	-9845	-8497	-6043	-6859	-5881	-10477	-13650	-8893	-12841	-3170	-5898
Libya	-4717	-10543	-8517	-6379	-7940	-10229	-16089	-21896	-22818	-28757	-14325	-21159
Saudi Arabia	467	-5269	-1492	-91	-2106	-5319	-8080	-8204	-1849	-4774	3972	3185

Source: Eurostat. 2011. “Extra-Euro Area (EA16) Trade, by Main Partners, Total Product.” Last Update: June 17, 2011. Internet site: http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tet00054 (accessed June 21, 2011).

Figure A.1.6: The Top Six Exporters to the EU, Millions of Euros, 1999-2010

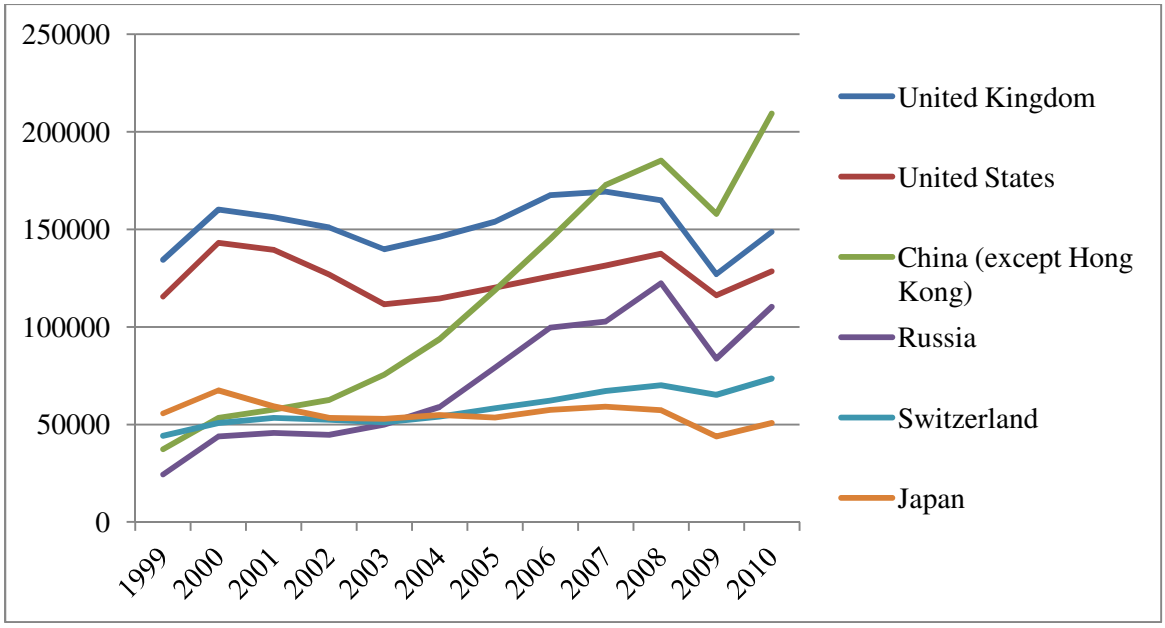
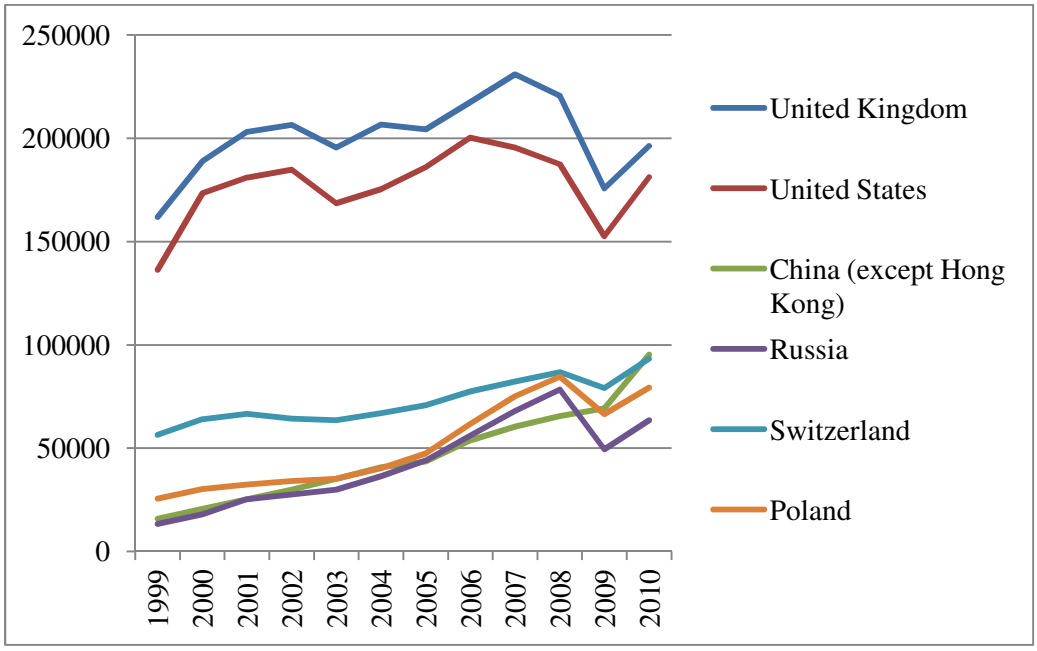


Figure A.1.7: The Top Six Importers from the EU, Millions of Euros, 1999-2010



Source for figures 9 and 10: Eurostat. 2011. "Extra-Euro Area Trade by Main Partners, Total Product." Last Update: June 17, 2011. Internet site: http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tet0053 (accessed June 21, 2011)

A.1.3.2 The EU Environment Going into the Chilean FTA

Like the United States, the European Union was interested in trying to strengthen economic ties and integration with the south in the beginning of the twenty-first millennium. Indeed, the European Commissioner at the time of the agreement gave a statement discussing the agreement with Chile and how it was a priority for the EU to build stronger relations with Latin America. The proposed deadline for an agreement was proposed to be before the second EU-Latin American summit (SICE, OAS 2002). Furthermore, the EU saw Chile as somewhat of a link between the north and the south as Chile was a country in the south that most embraced globalization and its benefits (European Commission: Trade 2000). When discussing why the EU was interested in Chile and MERCOSUR, it was to strengthen regional integration, help the south develop, and to advance multilateral progress. Furthermore, an agreement with Chile was especially strategic as it would help the EU by creating allies in Doha and would also be important for a potential agreement with MERCOSUR. The idea of an agreement with MERCOSUR was very tempting for the EU as it would be an agreement of two customs unions and would further strengthen the multilateral trading system (EU Interview).

When the EU began negotiating a trade agreement with Chile in April of 2000, the EU already had significant relations with Chile including a so-called "Community Co-Operation Framework Agreement" dating from 1990 and significant trade and investment flows between the two entities. The previous agreement was created to have cooperation in economic, industrial, environmental, commercial, social and institutional fields and was amended in 1996 to include a political dialogue. The EU was the largest trading partner and the second largest foreign investor to Chile at the time of the trade negotiations. In 2000, 40% of all FDI in Chile was from the EU (European Commission: External Relations 2002). Spain was only behind the U.S. in terms of investments in Chile and in 2001, 44 multinationals from Europe were operating

in Chile. Without a doubt, the European Union wanted to remain a large partner with Chile and Commissioner Lamy even discussed how the EU wanted to remain Chile's main service provider in a statement announcing the successful end to negotiations (SICE, OAS 2002).

As stated before, Chile had plenty of experience in negotiating trade agreements when going into the discussions but the EU also had plenty of experience as well as they were in the process of adding even more members to their own economic association within Europe. Furthermore, they had experience working with Chile before. They knew the situation in Chile with regards to the sentiment towards liberalization and open markets even in the light of still existing agricultural pressures. The EU was also fairly aware of what they could and could not get away with in regards to its own "constituents". Although the U.S. had some constraints due to individual state, corporation, and senator concerns, the EU had much more pressure to create an agreement that all 15 existing members could approve of while at the same time allowing for a little room for negotiation in order to get the tough things that they wanted approved. Indeed, negotiators and producer groups in Chile indicated that the discussion with the EU was less of a "negotiation" than with the U.S. as Chile knew going into it that the EU had very little room to maneuver in order to meet the needs of its members.

One reason that developing countries try to negotiate trade agreements with other larger entities is to make permanent benefits that they currently receive from the GSP. In the case of the EU, the GSP includes lower tariff barriers for developing countries without expectation of reciprocation (European Commission 2010). It allows other countries to participate in trade and develop their markets while retaining higher tariffs on imports in order to encourage development of industries. GSP is not permanent, however as they can be removed at any point that larger countries such as the U.S. or the EU feel that a country is developed. Furthermore,

GSP benefits can become eroded for developing countries if its competitors also receive GSP or if preferential agreements are completed between the EU and developing countries that are better than GSP (Cooper 2004). For this reason, Chile needed a way to make the benefits they were receiving through GSP more permanent. Indeed in 2006, amendments were made to the Association Agreement which essentially allowed Chile GSP benefits through the FTA. By essentially lowering tariff levels in the EU to the level of GSP. As such, in May of 2007, the EU removed GSP from Chile (Europa 2007).

Despite the EU's orientation towards the multilateral system, at the time of the EU/Chile FTA discussions, there was a lot of progress being made at the bilateral and preferential levels all over the world including within the EU. For example, at the time of the negotiations, Chile was at the same time negotiating agreements with the U.S., Korea, EFTA[31] and some pacific partners[32]; Colombia, Ecuador and Venezuela were negotiating to become members of MERCOSUR; Canada was in negotiations with Costa Rica; the U.S. was negotiating with other less developed countries such as Jordan, Morocco, Oman and Singapore; DR-CAFTA[33] and well as agreements between many Central American countries and Asia were also being discussed. This global initiative to enhance bilateral and preferential relations all over the world undoubtedly affected the EU's decision to enter into bilateral negotiations.

The other reasons that the EU was likely under pressure to conclude an agreement with Chile included a desire for the EU to avoid further trade diversion costs (that could incur due to Chile's agreements with other countries including a large competitor-the U.S.), but also so that

[31]The European Free Trade Association includes Iceland, Liechtenstein, Norway and Switzerland.
[32] The P4 is the Trans-Pacific Strategic Economic Partnership Agreement and includes Chile as well as three of its Pacific neighbors including New Zealand, Singapore, and Brunei Darussalam.
[33] CAFTA=Central American Free Trade Agreement and includes Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.

they could promote their initiative of promoting sustainable development, as well as to strengthen ties with the south so that they may continue to have economic and social influence in Latin America. The main point of Doha was to integrate the developing countries more solidly into the multilateral trading system which in the EUs view would create global welfare and development opportunities (World Trade Organization 2002).

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Annex 2: The Forbidden Fruit in Liberalization

The idea of liberalization is to allow for goods to flow freely from one place to another. This allows each supplier to become more specialized and thus increases welfare. This idea, however, is often not a possibility in reality and that is especially the case for agriculture. The following chapter will discuss why agriculture is particularly sensitive followed by a discussion of how agriculture is sensitive as evidenced in the special treatment of agriculture in multilateral trade. The last three sections of this chapter will discuss agriculture in the context of Chile, the U.S. and the EU with particular attention to goods which are "sensitive" for each country, their related treatments in trade negotiations, and the structure of agriculture for each country.

A.2.1 Agricultural Goods Protection

Since the Agreement on Agriculture (AOA), much of the protection for agricultural goods has undergone a process of "tariffication" wherein much of the border protection has been converted into tariffs or tariff-rate quotas. With a tariff, importers must pay a percentage of the value of the good upon entry into a foreign market. A tariff rate quota has differing tariff schedules depending on how much of a particular good has been imported during that year. A country may have a smaller, or preferential, tariff or even duty-free access up to a certain level after which, all imports are charged a higher tariff rate. These tariffs can be set for a particular country, for a particular commodity, or for all trading partners with or without preferential treatment for some importers. Often developed countries will allow the initial duty-free quota to be filled by less developed countries first in order to allow them preferential access to their market (Durpraz and Matthews 2007).

There are special ways of handling tariffs that can also help to protect domestic agriculture in FTAs. One of the more common methods, particularly for Latin American FTAs is a longer tariff reduction phase-out period for the sensitive goods (Kjöllerström 2006). This

process is argued to allow the domestic industry time to adjust to free trade and become more competitive with the increasing imports. In addition to long phase-out periods, tariff schedules can often be "back-loaded" wherein much of the tariff reduction occurs towards the end of the tariff schedule. It is not uncommon for an agricultural good to have no tariff reduction until years after an agreement has been made. Additionally, some goods may have permanent tariff reductions wherein the tariffs are reduced infinitely but never become free. For example, a good might have a permanent tariff reduction of 10% meaning that each year the bound tariff is reduced by 10%. Similarly, a quota may increase in volume by a certain percentage annually. In these cases, protection continues to decrease without actually ever being eliminated.

Additionally, it is interesting to note that often countries have higher set tariffs, also known as bound tariffs, but actually apply much lower tariff rates. This may occur for a variety of reasons such as to boost domestic supply of a good in order to lower prices for consumers or to make up for a domestic production shortage; regardless of the reason, it raises the question of whether a tariff rate comparison or a tariff negotiation should be based on the bound rate or the actual applied rate. For the EU, the tariff reduction schedule is usually related to the WTO MFN rates whereas for the EU trading partners, it normally refers to the applied tariffs (Rudloff and Simons 2004). Chile has a much lower applied tariff rate for example than its official bound rate (Table A.2.1). The EU, on the other hand had a higher applied rate than a bound rate indicating that they over-charged tariffs in 2009 and, in this case, the overcharge was for non-agricultural goods. The U.S.'s applied tariffs were lower than Chile's, however the U.S. also charged non ad-valorem duties that were based on a % of the total tariff lines. The EU also charged this non ad-valorem duty and had the highest applied tariff for its agricultural goods compared to the U.S. and Chile. Indeed, this tariff for agricultural goods was equal to their bound rate and more than

doubled Chile's applied tariff of 6% and almost tripled the U.S.'s applied tariff of 4.7% for agricultural goods.

Table A.2.1: Comparison of the U.S., EU and Chile Tariff Rates, Bound and Applied, 2009

	United States		European Union		Chile	
	Final Bound	Applied 2009	Final bound	Applied 2009	Final bound	Applied 2009
Simple average of import duties						
All goods	3.5	3.5	5.2	5.3	25.1	6.0
Agricultural goods (AOA)	5.2	4.7	13.5	13.5	26.0	6.0
Non-agricultural goods	3.3	3.3	3.9	4.0	25.0	6.0
Non ad-valorem duties (% total tariff lines)	8.2	8.2	4.8	4.6	0.0	0.0
MFN duty free Imports						
in agricultural goods (AOA)		39.9		41.3		0.3
in non-agricultural goods		48.3		54.8		0.4

Source: World Trade Organization. 2011. "Trade Profiles." Updated March 2011. Internet site: http://stat.wto.org/CountryProfile/WSDBCountryPFHome.aspx?Language=E (accessed on June 20, 2011).

In addition to tariff treatment, there are other ways of protecting agriculture. For one thing, many agreements have special safeguards. These generally allow a country to place temporary restrictions on imports in special circumstances meriting import restrictions such as a surge in imports. The special agricultural safeguards go beyond normal safeguards in that they allow a country to instate these safeguard measures automatically when imports or prices rise above a certain level. Additionally, the restricting country does not have to prove that injury was actually done to the industry in order to use these measures. The only restrictions on special safeguards are that they may not be used on non-tariffed products or on goods that are within the quota limit and the amount of the restriction cannot exceed MFN tariff rates (Kjollerstrom 2006). Interestingly, the U.S.-Chile agricultural safeguard is only triggered by price. The EU-Chile agreement on the other hand has "an emergency safeguard clause for (all) agricultural goods,

applicable when imports cause serious injury or disturbances in the markets" (Kjollerstrom 2006, 86).

Similar to safeguards, within most FTAs, there is also the possibility to use countervailing duties or anti-dumping measures. These allow a country to temporarily halt trade or to apply an additional duty or tariff to goods if the country feels that the imports are causing harm to the industry. Interestingly, although safeguards, countervailing duties and anti-dumping duties are allowed according to WTO rules, they are not often applied. One interviewee in Chile indicated that while they did not want the U.S. to be able to hold on to safeguards, they were not altogether too concerned as the U.S. rarely invoked these measures (Chile Interview). However, Milner and Rosendorff insist that these tools which they refer to as "escape clauses" can be essential to getting an agreement because it lends flexibility on all sides but in order to be optimal, they must create sufficient costs of enforcement otherwise they will be overused leading to losses in welfare (Rosendorff and Milner 2001). EU agreements often feature "flexible adjustments" which allow for review of the agreement and flexibility in case of changes in domestic agricultural policy (Rudloff and Simons 2004).

Non-tariff barriers can be among the more vicious forms of protection for agriculture. For example, in the case of sanitary and phytosanitary concerns, a country may create a new standard or requirement which makes it such that a good on its way to a country may be rejected at the border due to not meeting these new requirements. A relevant example is when Chile banned all U.S. wheat imports in 1996 due to the detection of the Karnal bunt fungus. They refused to recognize the USDA phytosanitary certificates effectively halting wheat trade from the U.S. (FAS 2004). Indeed, many U.S. groups were worried about SPS as a more significant trade barrier with Chile and wanted a specific SPS agreement to take care of these issues. Another

bother to importers of agricultural goods are technical barriers to trade. Indeed, the WTO states that "having many different regulations and standards makes life difficult for producers and exporters. If regulations are set arbitrarily, they could be used as an excuse for protection" (World Trade Organization 2011). These technical barriers can include the degree to which something is tested or other methods to ensure that food products are safe and meet the safety or health requirements of the importing country. Some countries may also require country of origin labeling or other labeling standards which may require more cost or time on the part of the exporter.

A common mode of protection for agriculture is domestic subsidies. The AOA called for the eventual complete removal of all export subsidies and the reduction of trade distorting subsidies, including those that are considered minimally trade-distorting and classified by the "blue box", by 20% from 1995 to 2001 for developed countries. Green box subsides are considered to have little impact on trade and thus can be used freely and include such things as research and investments, environmental protection, rural development, food safety and direct payments to producers which are not based on price or production (World Trade Organization 2011). While the U.S. and the EU have included these trade distorting subsidies or policy programs, both entities have begun to move towards the green box subsidies although even these are said to have an impact on the international trading system as the U.S. and the EU are large producers and exporters.

A.2.2 Rationale for Sensitivities in Agriculture

There are various arguments for why agricultural goods are special and thus must be treated in a different manner than other non-food goods. Some of these reasons are domestic-political, such as food security or rural development. Economic rationale is used when imports of a good that is protected and has remarkable surpluses will cause domestic prices to decrease

leading to the need for more subsidization. In addition to these justifications, there are certain conditions which may lead to more protection for this sector that may or may not necessarily be present in other sectors such as industry concentration, safety requirements or the level of organization on the part of the producers. Moreover, these justifications could be considered as even more relevant for developing countries compared to developed countries as issues such as food and livelihood security are important to the development process.

A.2.2.1 Domestic Political Rationale for Agricultural Protection

The domestic-political rationale for special treatment of agriculture can vary by country and by product. For example, the argument that trade barriers should remain for agricultural products in order to ensure that a nation is able to feed its people without the help of imports may be valid for such goods as rice and maize; it does not, however, seem relevant to use food security as a justification to protect cotton. However, cotton is considered a key crop in many developing countries (particularly in Africa) and as such, it is indirectly contributing to food security as these cotton farmers must remain globally competitive in order to have income and thus meet the nutritional needs of their families. In any event, it is important to know and understand the domestic-political rationale for retaining protection for various agricultural goods. In her article concerning The Special Status of Agriculture in Latin American Free Trade Agreements, Kjöllerström identifies some of the main domestic political reasons for agricultural protection in FTAs:

- Food security: Particular agricultural goods may be a large portion of a people's diet justifying protection. Protection may be used for most "staple crops" under the "better to be safe than sorry" principal wherein a country should remain self-sufficient in food crops in case the world trading system were to collapse. Furthermore, self-sufficiency is necessary in order to have autonomy in security decisions.

- Livelihood security: This is particularly important for an agricultural crop which employs a great number of people. It is also important for the subsistence farmers who rely on farming as a source of nutrition and income for their family.
- Rural development: The argument here is that agriculture provides some public goods which are often not accounted for in the market value of production such as beautiful landscapes or the rural way of life.

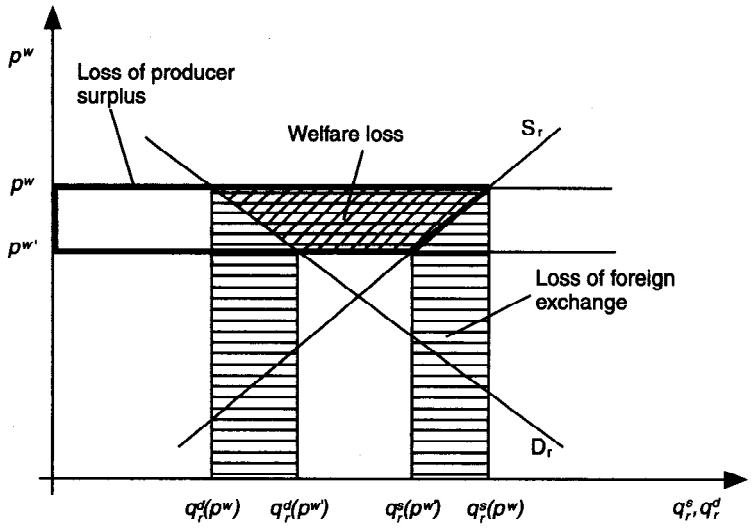
In addition to this domestic political rationale for protection, there are also domestic political reasons why the agricultural sector should be protected despite its relatively unimportant role in many economies and their employment statistics. Hagedorn for example insists that in Europe, agricultural policy is more favorable to the farmers because of pressure-groups ability to "associate the role of agriculture with social values" and furthermore, that agricultural groups are better able to produce "political influence, compared with those groups and voters who might be interested in less costly agricultural policies" (Hagedorn 1991, 45). This ability of course is associated greatly with the structure of agriculture wherein the costs to enter are high and often irreversible, as is often the case with fixed assets and in the presence of entry and exit barriers, and there is a high opportunity cost to non-agricultural employment. Furthermore, the atomistic structure of agriculture, meaning a high number of producers, makes collusion very difficult. All of these things serve "as a reliable political basis for a consensus within agricultural groups to employ political coordination mechanisms in an alternative way to pursue their interests" (Hagedorn 1991, 46). Indeed, farmers who are able to become organized can work together to put collective pressure on the government for protection of the industry although this organization may depend greatly on the structure of the producers for a particular crop

(Kjöllerström 2006). Indeed, the political pressure that agricultural groups have been able to put on their governments has greatly affected the outcomes for agriculture in FTA negotiations.

A.2.2.2 Economic Rationale for Agricultural Protection

Throughout the process of liberalization, markets have become more and more integrated. The policies enforced in the U.S. and the EU inherently have an impact on global prices and thus the smaller countries with which they trade. This is especially the case in agriculture within which the U.S. and the EU share a considerable portion of total trade as large importers and exporters. The economic argument holds that "the changes in world market prices due to price policy interventions in the considered large country affect different political objectives in third countries" (Jechlitschka, Kirschke and Schwarz 2007, 89). Indeed, agricultural protection in large countries often has a negative impact on the welfare of producers and foreign exchange in smaller third country exporters due to lower prices in the third country. Figure A.2.1 below shows the negative welfare impacts to a third country exporter. This graph is particularly relevant as Chile is a net exporter of many agricultural goods. In order to reduce welfare losses Chile is under pressure to instate their own protectionist price policies to protect their producers. Additionally, the U.S. or the EU may want to "use its market power on the world market to influence the world market price to achieve its own objectives" such as becoming a monopsonist on the world market by eliminating third country competition (Jechlitschka, Kirschke and Schwarz 2007, 90). Regardless of the intent of the U.S. or the EU, Chile has an incentive to protect its agricultural producers if they would like for their producers to remain competitive.

Figure A.2.1: Impact of a Protectionist Price Policy on Political Objectives in Third Country Exporters



Source: Jechlitschka, Kirschke and Schwarz (2007): Microeconomics using Excel®: Integrating Economic Theory, Policy Analysis and Spreadsheet Modeling, p. 90

Because of this argument, a country is often said to have gotten a "good deal" when they are able to keep protection. Indeed, even a TRQ that has a short reduction time-table can be very helpful to protect the third country against lower domestic prices as it gives the third country producers time to adjust to lower prices and to become more competitive themselves. Latin American FTAs are characterized by backloaded schedules under the auspice of doing just this.

Chile of course is not the only country which is concerned about the economic impact of tariff reduction and the removal of other protectionist measures. The U.S. and the EU also have cause to be wary of particularly competitive imports. Indeed, in the case of high domestic protection, the free flow of competitive imports could undermine high prices maintained by the income, price and production supports. Furthermore, high domestic protection accompanied by internal surpluses means that the domestic governments are already struggling with maintaining high prices in the presence of surpluses and thus want to be able to export their goods and not

compete against imports (Rudloff and Simons 2004). Indeed, in these cases, the EU and the U.S. have the greatest interest in both keeping imports out and securing a bilateral market for the same goods.

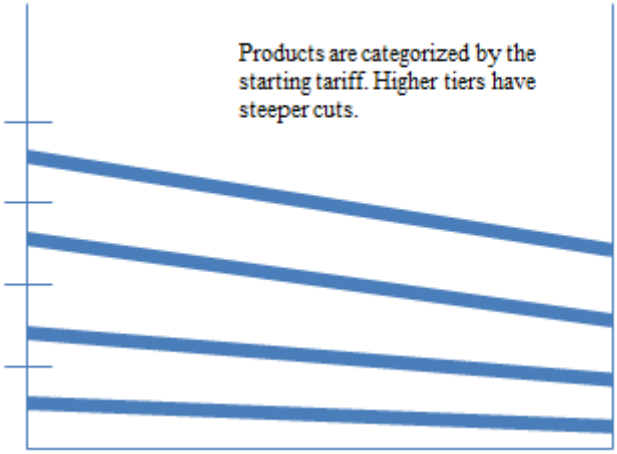
A.2.3 Agriculture as a Contentious Issue in Liberalization Debates

Trade agreements can be particularly difficult to manage especially in agriculture. Davis explains how difficult liberalization in agriculture is because "countries stubbornly defend domestic programs" and farmers are more motivated to organize thus driving up protection for their sector. Furthermore, "nontariff barriers remained common in the agricultural sector long after they were eliminated for most industrial goods" (Davis 2004, 153). Even more difficult in negotiations for agriculture is that there are big disagreements with regards to how agriculture should be treated and where it should be discussed. In the FTAA talks, the divisions with MERCOSUR and the U.S. mostly centered on MERCOSUR's intention to focus on agricultural tariff reductions, domestic support, food aid, and SPS whereas the U.S. preferred to use existing rules provided by negotiated outcomes in the WTO (IICA/FAO Joint Technical Secretariat 2001).

Indeed, since the Uruguay Round and the AOA, not much progress has been made regarding agricultural liberalization at the multilateral level despite the attempts in the Doha Round. The Cancun ministerial ended in a "framework" which includes the "modalities" on agriculture" (Annex A of the "July Package" from Doha). This framework generally called for reduction of domestic support with new limits on trade distorting subsidies, the elimination of export subsidies, and a new "tiered formula" approach to tariff reduction (Figure A.2.2). Nevertheless, this agreement allows for countries to define those goods which are "sensitive" which are not necessarily held to the tiered approach but simply a promise of "substantial improvement". Moreover, special and differential treatment is given to developing countries

reducing the amount of tariff reduction which must be undertaken by these countries in addition to an additional special safeguard mechanism (World Trade Organization 2004).

Figure A.2.2: The WTO Tiered Approach to Tariff Reduction



Source: Modified from World Trade Organization. 2004. "Visualized: Approaches to Tariff Reduction Formulas." Internet site: http://wto.org/english/tratop_e/agric_e/negs_bkgrnd26_visualized_e.htm#tiered (Accessed on June 23, 2011).

In addition, there are various groups in the WTO which often have varied beliefs on how agriculture should be treated. For example, there are various groups of "small, vulnerable economies (SVEs)" who consider agriculture and agricultural market access to be very important in liberalization debates. Other groups, such as the G-10 and G-20 call for ambitious reforms in agriculture in developed countries with flexibility for developing countries. There are also groups which target a specific area in liberalization debates such as the "friends of special products", the West African cotton coalition, or the friends of fish group (World Trade Organization 2011). Because of the diversity of priorities, goals, and relative positions in the global trading system, negotiating agricultural issues at the multilateral level can be very difficult.

A.2.4 Agriculture in the Context of Chile

Just like with any country, there are pressures to protect agriculture. These pressures may be for food security and job security like discussed above as agriculture does still contribute a greater portion of Chile's GDP than the U.S. or EU agricultural sectors and employment levels. There is also a significant pressure in Chile however to gain access to other markets for their goods. Since their external tariff is set at a uniform level of 6%, they do face import competition pressures and therefore need to ensure an external market for their own goods in the event of fierce competition with imports. They have benefited in the past from GSP and other preferential market access provided by developed countries; however their economic progress and entry into the OECD signified that it was becoming more and more important for Chile to institutionalize this preferential access in order to ensure the sustainability of their export-oriented agriculture sector. The following sections will discuss why some goods are more sensitive than others in Chile, what this means in terms of the approaches which should be used for different goods and the underlying structure of the agricultural industry in general in order to give an idea of the environment going into the agricultural market access negotiations with the U.S. and the EU.

A.2.4.1 Sensitive Agriculture in Chile

One of the greatest reasons for sensitivities in agriculture is the presence of fiercely competitive imports. Chile's low tariff levels make it a lucrative export destination for neighbors despite the less than stellar domestic demand. As such, some goods which are specialties of Chile's neighbors such as beef and oils in Argentina or grains from MERCOSUR neighbors, makes domestic production for these goods not as lucrative for producers. This helps to explain why some goods such as wheat, sugar and oils in Chile, have been further protected by the price band system (PBS). Indeed, Chile has been the subject of disputes with Argentina over this system and it was ruled as WTO illegal. This kind of protection was on the way out anyways

because of actions on the part of the processing industry in Chile which wanted the cheaper imports in order to provide cheaper processed goods.

Chile's neighbors provide stiff competition for Chile's agricultural sector. This does not however mean that there were no sensitivities with the U.S. and the EU with regards to agricultural goods. Indeed, the counter-seasonal production pattern was not a very useful trade barrier for those goods which are not seasonal such as poultry and processed goods. Poultry was a fairly large issue with the U.S. because consumption of poultry in the U.S. is opposite to that in Chile; Americans like white meat whereas Chileans prefer dark meat. As such, there was fear on both ends that their markets would be flooded; i.e. that the Chilean market would be flooded with legs whereas the U.S. market would be flooded with breasts. Fish, on the other hand, was a more difficult issue to the EU as the EU and Chile competed in some varieties of fish products.

One of the largest indicators of sensitivities in agricultural production deals with the structure of production, imports and exports within each country especially vis a vis the trading partner in current negotiations. Chile is not self-sufficient in some agricultural goods including meats, grains, oils, dairy products, and sugar. These goods make up the principle agricultural imports into Chile from the rest of the world. The number one import into Chile according to ODEPA is beef meat with poultry meat also include as the 14th and 15th largest imports. Commodities make up the majority of the imports however and include corn, which is ranked as the 2nd largest import, animal feed, refined sugar, soybean products, sorghum, rice, wheat and meslin. Oils are also imported significantly in animal, vegetable, and sunflower form. The remaining two largest imports are bananas or plantains and malt beer (ODEPA 2010). As mentioned before, Chile is a large producer and exporter of fruits, wood products, fish and wine.

As such, these are the products that Chile most wants to gain market access for in large countries.

In terms of production, wheat has taken up the most hectares of land since 2001 although that number has been generally decreasing since that time with production moving from 436,100 hectares to 254,281 hectares of land. The production area of oats, maize, barley and potatoes has also been very high although the production of those annuals has also been generally decreasing with the overall acreage for annual crops declining from 814,406 hectares in 2001 to 596,270 hectares in 2010. Total fruit production on the other hand has increased since 2002 with more hectares being planted in fruits than any other crop in 2009. Table grapes and apples have constituted the majority of orchard production. Fruit production constituted a larger percentage of the agricultural GDP than did traditional agricultural production. The Chilean food industry however constituted a larger percentage of the agroindustry GDP than did actual production from 2003 to 2008 indicating that this industry has a great deal of importance (ODEPA 2010).

In terms of domestic economic constraints, Chile does not have farm subsidy programs that target producer income although there are programs which help them to become more competitive such as insurance programs, market development, subsidies to increase productivity and competitiveness through investments in technology, and financing for small producers (OECD 2007). Lower priced imports from the U.S. and the EU do not compromise or conflict with these domestic programs. Indeed, these domestic programs can help producers adjust to the pressures of import competition making their export-oriented model more sustainable.

A.2.4.2 Structure of Agriculture in Chile

One of the key characteristics of the agricultural industry in Chile is the existence of close policy networks between the producer organizations and the government especially with regards to FTA negotiations. According to Benedicte Bull, these policy networks began forming

after the economic collapse in the early 1980's in order to have more influence on the government after the return to democracy. Part of the strength of the agricultural sector was the presence of two umbrella organizations which essentially helped connect the smaller organizations to the government: SNA and SOFOFA (Bull 2008).

SNA is an agricultural organization which consists of 27 producers groups. In general, they are the agricultural group which most represents the interests of the import competing producers as they represent APA (the poultry association), the meat producers, the milk producers and the grain producers. Despite some sensitive sectors, SNA took a free-trade position in the U.S. and EU negotiations seeing the FTAs as an opportunity rather than a threat based on the thoughts of the majority of its member groups. Because of SNAs open stance, a group of cereal producers actually left SNA at the time of the negotiations although they later re-joined. They felt that SNAs position was much too open and as such did not represent their interests (Bull 2008). One source suggests other vigorous opposition: "the abolition of price bands engendered noisy opposition from the conservative Alianza por Chile coalition…and though the number of legislators who ultimately voted against ratification was small, prominent Alianza leaders launched an energetic campaign denouncing the Concertación for abandoning traditional agriculture to the vagaries of the international market" (Leight 2008).

The other agricultural organization which took a much more export-oriented approach to agriculture was the Sociedad de Fometo Fabril[34] (SOFOFA) which represented the export organizations Chilealimentos and the association of exporters (ASOEX) as well as agricultural manufacturing and some producer groups more open to trade such as the fishermen association (SONAPESCA). SONAPESCA and the Association for Wineries among other organizations

[34]Translated as the society of food manufacturers.

within SOFOFA were greatly involved in the negotiations on their own accord. Indeed, although SOFOFA represented 48 different organizations many of these organizations were active in the negotiations aside from SOFOFA's role as a facilitator in the negotiations (Bull 2008).

A.2.4.3 Different Approaches for Sensitive Agricultural Goods in Chile

In Chile, the food industry and fruit and viticulture sectors were very export-oriented whereas the traditional crop production sector was very much import-competing and thus sensitive. As such, the food industry and fruit and viticulture sectors were very offensive in terms of trade negotiations hoping to secure a market for their goods in the U.S. and the EU. Although Chile was a significant player for such a small economy and country, many of the export-oriented sectors had the potential for more exports as did some of the import-competing sectors. Indeed, a few industries including the dairy sector and poultry sector were somewhat defensive knowing that they could not immediately compete with U.S. imports, but at the same time, they wanted sufficient market access for their goods once their industry became more competitive. Other sensitive products such as wheat, oil and sugar required a much more defensive approach in order to keep protection after the loss of the PBS in the dispute with Argentina. Although they knew that they were likely to lose the PBS, they were reluctant to let it go if they did not have to. Indeed, a U.S. negotiator indicated that the possibility of losing the PBS was Chile's biggest fear as they felt they were able to compete in everything else (U.S. Interview).

Because of the divided nature of agriculture in Chile, side rooms were structured so that various groups could be heard. There were side rooms for large producers, labor, and small and medium enterprises ensuring that the agriculture producers as well as the agricultural industry could be heard in negotiations (Chile Interview). Negotiators generally wanted producer groups from each side to work out mutual agreements; however, some goods were particularly difficult because Chile had the potential to be a greater exporter of some goods whereas the U.S. wanted

to secure access for their more export-oriented goods and thus some tough issues had to be left up to the negotiators.

A.2.5 Agriculture in the Context of the U.S.

In the U.S., much of the sensitivities are much more related to the economic argument in that subsidies require that supply be somewhat fixed in order to not have to spend even more money on subsidies. Other pressures do, however, exist that relate well to the structure of existing competition for agricultural imports into the U.S. from trading partners and the agriculture industry's ability to put pressure on the government for support. Furthermore, Chile is competitive in many agricultural products, and becoming more competitive in other agricultural products due to their diversification strategy, making them more of a "threat" than would initially seem justified given their small economy and distance.

A.2.5.1 Sensitive Agriculture in the U.S.

U.S. farm programs are provided by the omnibus farm legislation typically referred to as the farm bill. This legislation is revised and implemented every 4 to 6 years. The relevant farm bills for the Chile FTA negotiations were the 1996 Federal Agricultural Improvement and Reform Act (FAIR Act) and the Farm Security and Rural Investment Act of 2002. The 2002 Farm Bill had a projected budget of $104 billion over the 6 year implementation period (Chite 2004). The justification given for these farm bills is as such:

> "Its provisions support the production of a reliable, safe, and affordable supply of food and fiber; promote stewardship of agricultural land and water resources; facilitate access to American farm products at home and abroad; encourage continued economic and infrastructure development in rural America; and ensure continued research to maintain an efficient and innovative agricultural and foods sector" (ERS 2002, 1).

Indeed, this rationale reflects various domestic political goals: food security, environmental protection, and rural development. Further, there is a logic that the U.S. government believes that to meet these goals there must be incentives and thus the farm bill provides these incentives.

The main differences in the 1996 and 2002 farm bill is in the area of commodity programs and includes changes made to the farm payment program and the addition of the counter cyclical farm income support program. The direct payment program was available for wheat, feed grains, upland cotton, and rice in 1996 with the addition of soybeans, other oilseeds and peanuts in the 2002 legislation. The direct payment program changed from 7 year "production flexibility contracts," which were based on contract acreage and program yield for that commodity, to a yearly completely decoupled enrollment contract wherein contract payments were determined by historical acreage and yields and thus considered to be within the green box according to the WTOs classification of domestic support that was based on new, fixed payment rates for each commodity. The counter cyclical payment program added in 2002 for wheat, feed grains, upland cotton, rice and oilseeds provided an income support payment to farmers if their effective prices fell below a pre-determined target price. This subsidy program is considered blue box because it is tied to price but not production (ERS 2002).

Other commodity programs provided by the U.S. include the marketing assistance loans (MLs) and loan deficiency payments (LDPs). These two programs provide non-recourse loans to farmers so that if the prices are lower than the loan, then the farmer is forgiven for not paying the full amount of the loan. These are of course tied to an Olympic average price and production of wheat, feed grains, and upland cotton; 2002 saw the addition of the peanuts, wool, mohair, honey, small chickpeas, lentils and dry peas to the program. Additionally, the farm bills had a special upland cotton marketing certificate program which gave incentives to export more cotton by basing payment rates on the world prices. Wool and mohair was added to the program beginning in 2000 and this addition was retained in the 2002 farm bill (ERS 2002).

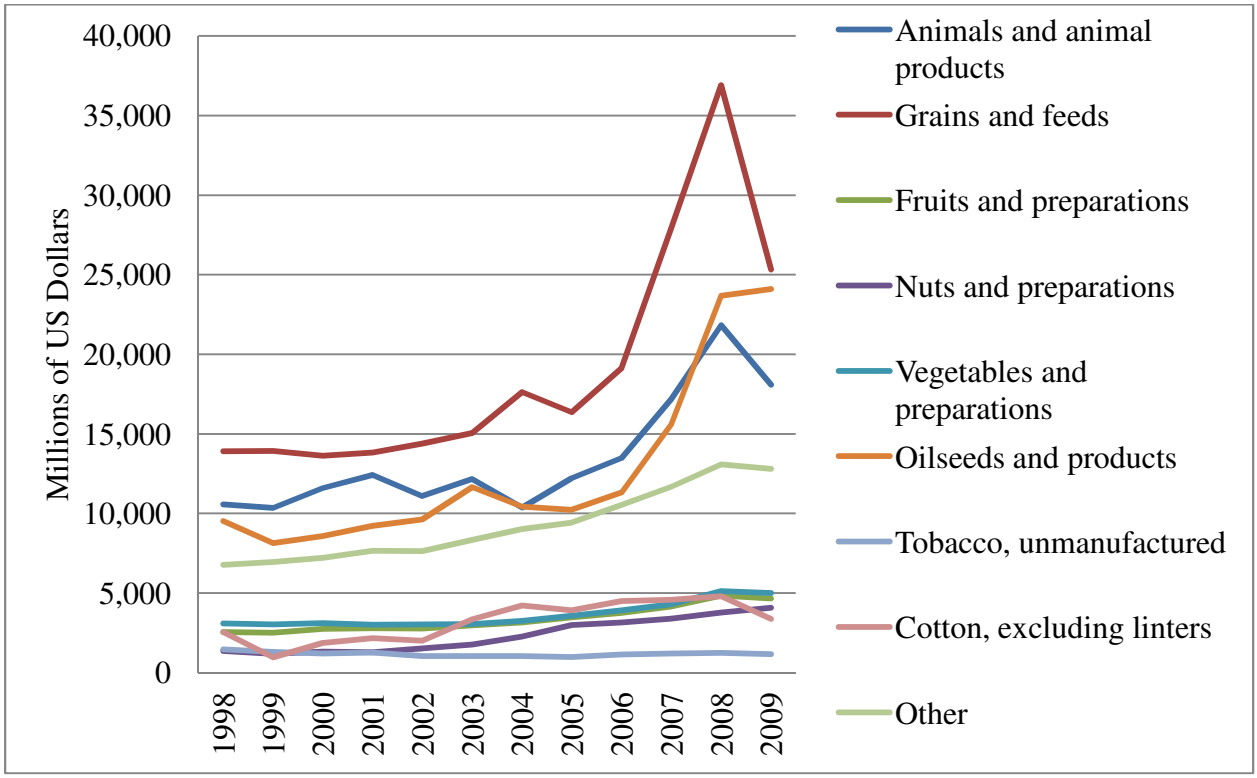
The 2002 farm bill also saw the addition of a diary program and changes to the sugar program in the commodities section. The dairy program provided milk price support and federal milk marketing orders. This program involved the government buying butter, nonfat dry milk and cheese from producers. The sugar program included price supports for raw cane sugar and refined beet sugar. The 2002 farm bill eliminated one of the loan options for sugar called marketing assessments, and more closely tied sugar subsides to the global market by creating quota provisions for sugar production, which includes inventory management to balance markets, and non-recourse loans tied to global prices and changes in the world export subsidies for sugar and other import measures (ERS 2002).

The U.S. also has other programs which are not tied to price or income support but that still assist the agricultural sector. These programs are classified as green box subsidies as they are considered to be minimally or non-trade distorting. These programs include conservation programs to set aside land, such as the Conservation Reserve Program (CRP), the Grassland Reserve Program (GRP), or the Wetlands Reserve Program (WRP), or divert land to other purposes, such as the Environmental Quality Incentives Program (EQIP) or the conservation security program (CSP). Other programs provide farm credit assistance to farmers, provide funding for research programs, or define food safety regulations including animal welfare and COOL. A significant portion of the farm bill is the nutrition programs which distribute commodities to people in poverty such as the food stamp program or Women, Infants and Children (WIC). These programs help to reduce surpluses, and thus increase supply side prices, while helping those in poverty by providing a certain value of food for the people for free each month (ERS 2002).

In addition to the existence of domestic subsidies, there are other reasons why some goods may be more sensitive than others including the fact that the U.S. was already fairly open to external trade and thus a major importer of agricultural goods from elsewhere besides Chile. Indeed, two of the U.S.'s top trading partners, Mexico and the EU, export avocados and wine respectively to the U.S. among other agricultural products presenting top competition for two of Chile's high value export opportunities to the U.S. Moreover, imports of agricultural goods to the U.S. have increased greatly since 2002 largely in the area of processed food and beverages including wine and beer (FAS, USDA 2007). As a producer of other fruits and vegetables, Chile competes with Mexico, Argentina, Brazil, Columbia and Peru which are also trading partners with the U.S.

According to the Foreign Agricultural Service, "compared to the overall economy, U.S. agriculture is twice as reliant on overseas markets" (FAS, USDA 2010). Close to or more than half of U.S. rice (49%), wheat (50%), almond (64%) and cotton (74%) production are exported (FAS, USDA 2010). Furthermore, the majority of U.S. agricultural exports are grains and feeds (Figure A.2.3). Within that category, the largest export group is feed grains and products with corn. Wheat, wheat products, and rice are the other grains counted in this category. Other important U.S. exports include: animals and animal products, vegetables and preparations, and oilseeds and products which includes soybeans, soybean meal and vegetable oils and waxes (USDA, ERS 2010). Like overall trade, agricultural trade generally declined from 2008 to 2009 for the largest exports as a result of slumping world-wide demand (USDA, FAS 2010).

Figure A.2.3: Principal U.S. Agricultural Exports, 1998-2009

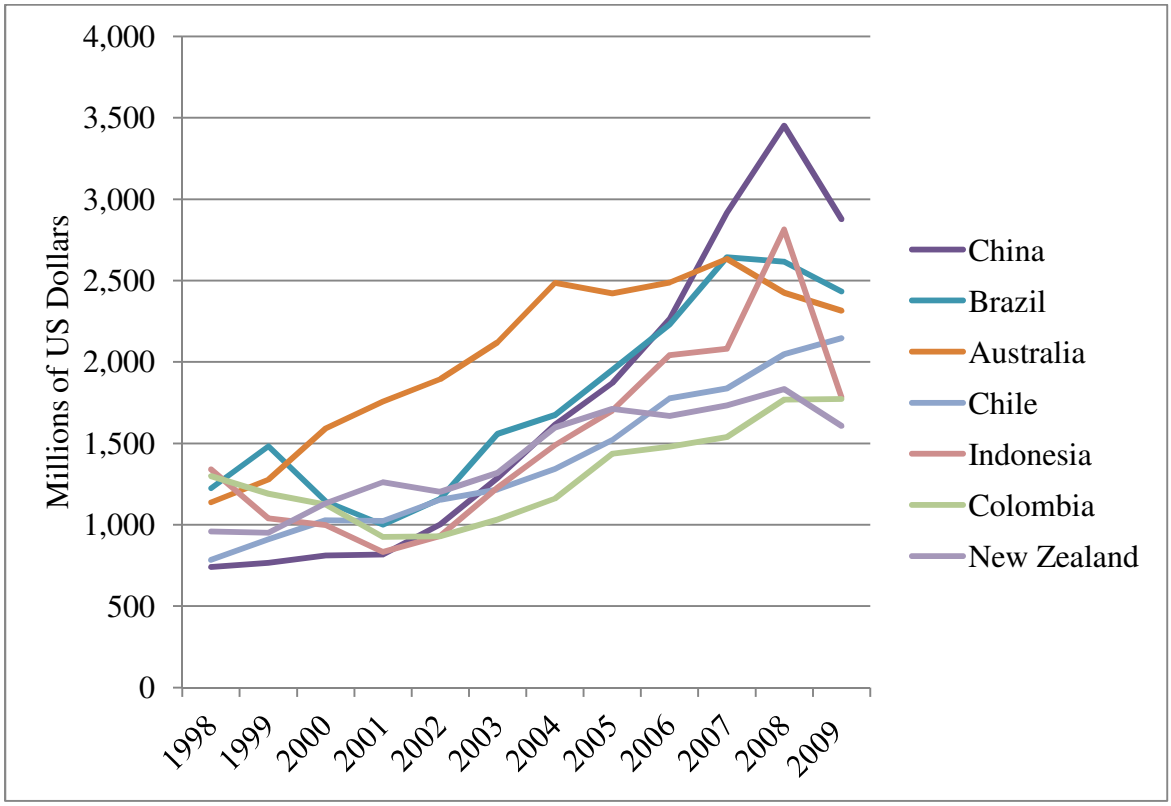


Source: FAOSTAT (2010): Trade, accessed at www.faostat.fao.org

Lower value and volume exports such as fruits and preparations (although this value experienced quite an increase over the ten year period), nuts and preparations, tobacco, cotton, and other agricultural goods are more import-competing (Figure A.2.4). Accordingly, chief U.S. imports include fruit juices, wine, malt beverages, coffee, meat, some grains including wheat, corn, oats, barley and rice, processed goods, feeds, fruits, nuts, vegetables, oilseeds, oils and tobacco (USDA, ERS 2010). In agricultural export markets, the U.S. has seen significant changes in importers over the last ten years. In 1998, Indonesia was fourth in terms of agricultural imports; by 2009, Indonesia was eighth in terms of agricultural imports. Indeed, the fourth largest importer of American agricultural goods changed a lot from 1998 through 2009 with Chile even holding the position in 2001 (Figure A.2.4). Of these top ten importers, half of them have FTAs with the U.S.: Australia, Chile, Mexico, Canada and Columbia. The five

without FTAs, have remained significant importers of U.S. agricultural products despite not having FTAs (USDA, FAS 2010). That the U.S. had a variety of markets for its goods already likely gave them additional bargaining power since the U.S. farmers already had access to markets for its exports without an FTA with Chile.

Figure A.2.4: Major Importers of U.S. Agricultural Goods, Excluding the Top Three Importers, 1998-2009



Source: U.S. Department of Agriculture, Foreign Agricultural Trade of the United States (FATUS), February 2010 "Global Agricultural Trade System Online (GATS),"July 2010, <http://www.fas.usda.gov/gats/default.aspx>.

Exports are not the only thing of importance to the U.S. Imports can also be quite threatening to import-competing sectors and sectors under development. This was especially the case in processed agricultural goods which was not only a growing industry in Chile but was an industry with considerable potential for export under the direction of SOFOFA. Indeed, although agricultural producers are a small amount of total employment in the U.S., the number working

in some parts of the value chain are much more impressive with food processing companies employing a significant part of the work place in certain geographical areas. Labor was, in fact, one of the more sensitive groups to the FTA negotiations and believed that the Chilean agreement should not be a model for future FTAs.

A.2.5.2 Structure of Agriculture in the U.S.

Like the Chilean agricultural sector, the U.S. agricultural sector primarily sees the U.S./Chile FTA has an opportunity while at the same time recognizing some lingering issues of sensitivity. According to an assessment of the political and economic forces that drive FTA's in agriculture by Dale Hathaway, "it is generally asserted that the agricultural sector is supportive of trade negotiations, the fact is that at any given time there is a significant opposition to trade liberalization in agriculture by a number of commodity groups" (Hathaway 2001, 6). Indeed, he insists that some commodity groups actually have a great deal of influence in agricultural policy because of their ability to work with other commodity groups to lobby congress. Furthermore, because they often appeal to congress people who represent the state where their particular commodity is particularly important, congress people tend to do what the commodity groups want going as far as to block agreements if their commodity group does not get what they want. Furthermore, these groups form the trade policy committees which he argues essentially control the resulting policies (Hathaway 2001). The Agricultural Policy Advisory Committee (APAC) was in favor of the U.S./Chile FTA and gave a universal go-ahead for the FTA. Under APAC, there are various Agricultural Technical Advisory Committees (ATAC) which represent various commodities. The grains, feed, and oilseeds group was happy with the FTA as it opened up the Chilean market and successfully eliminated the PBS.

Not only do the commodity groups have a significant amount of influence on congress people and the resulting trade policy, but other groups have influence and frustrations with trade

policy. Labor unions and environmentalists in the early 2000's were jaded by the NAFTA agreement and held the belief that FTAs are bad for domestic workers and for the environment. As such, these groups fought against FTAs unless the FTA included provisions regarding labor and environment. These issues are important to the democrats in congress but are not favored by the republicans. Indeed, the Bush administration would prefer that labor and the environment be left out of FTAs but at the same time, the democrats are needed in order to secure TPA (Hathaway 2001).

Agricultural groups were able to get language in the TPA text which recognized the "special status" of agriculture which requires "special consultation procedures that could affect U.S. tariff reduction positions taken on some 200 import sensitive agricultural and food commodities" (CRS 2002, 4). Some congressmen argued after the fact that there was not enough consultation. The Government Accountability Office (GAO) published results that many thought there was not enough time allowed to give consultations (GAO 2007). Nevertheless, the agriculture groups were behind the FTA going into it and hoped to improve the agricultural trade deficit which had been accumulating with Chile and to address important issues such as rules of origin (ROO), safeguards, transition periods and SPS concerns (CRS 2002).

A.2.5.3 Different Approaches for Sensitive Agricultural Goods

Like Chile, the U.S. had some goods wherein they were on the offense and some where they were defensive. It was definitely the case that the import competing goods (such as avocados and wines) were somewhat sensitive and as such required a different bargaining strategy and an innovative approach for the solution. Moreover, the U.S. was already fairly open in terms of agricultural trade and thus had expectations that Chile open up its market especially since a few of the goods which the U.S. exports are those goods for which Chile maintains their highest protection by way of their PBS. In this case, they took an offensive approach insisting

that wheat and oilseeds should be included (and thus eventually completely free) and that the price bands should be dropped. Indeed, the elimination of the PBS was an objective of the U.S. and although it was never said to be a "deal breaker", it would have been difficult for the U.S. to accept an agreement that did not eliminate the PBS (U.S. Interview).

A.2.6 Agriculture in the Context of the EU

The EU is both a large importer and exporter of agricultural goods, especially from the developing world. Their involvement in multilateral and bilateral trade negotiations has proven that agriculture is a particularly sensitive sector. Because of the sensitivities in this sector, Europe has a so-called "Common Agricultural Policy" (CAP) which serves to protect this sensitive sector even further. The first sub-section in this section will discuss the CAP and other reasons for sensitiveness. A discussion of the approaches taken with sensitive products will be followed by a discussion of the structure of agriculture in the EU will provide a framework for understanding the EU's position in FTA negotiations with regards to political, bureaucratic and strategic objectives faced by the union.

A.2.6.1 Sensitive Agriculture in the EU

Like the U.S., the EU has rationale for protecting agriculture through the infamous CAP. Indeed, one of the main arguments for agricultural policy in the EU is the preservation of a "multi-functional" sector. In an explanation of the CAP provided by the Agriculture and Rural Development DG, agriculture is described as providing three functions: the food role both in Europe and around the world, the sector's application of safe, clean, and environmentally friendly production processes which produce quality products, and the role that the farming sector has in rural communities. Furthermore, the purpose of the CAP is:

> "…aimed at supporting farmers' incomes while also encouraging them to produce high quality products demanded by the market and encouraging them to see new development

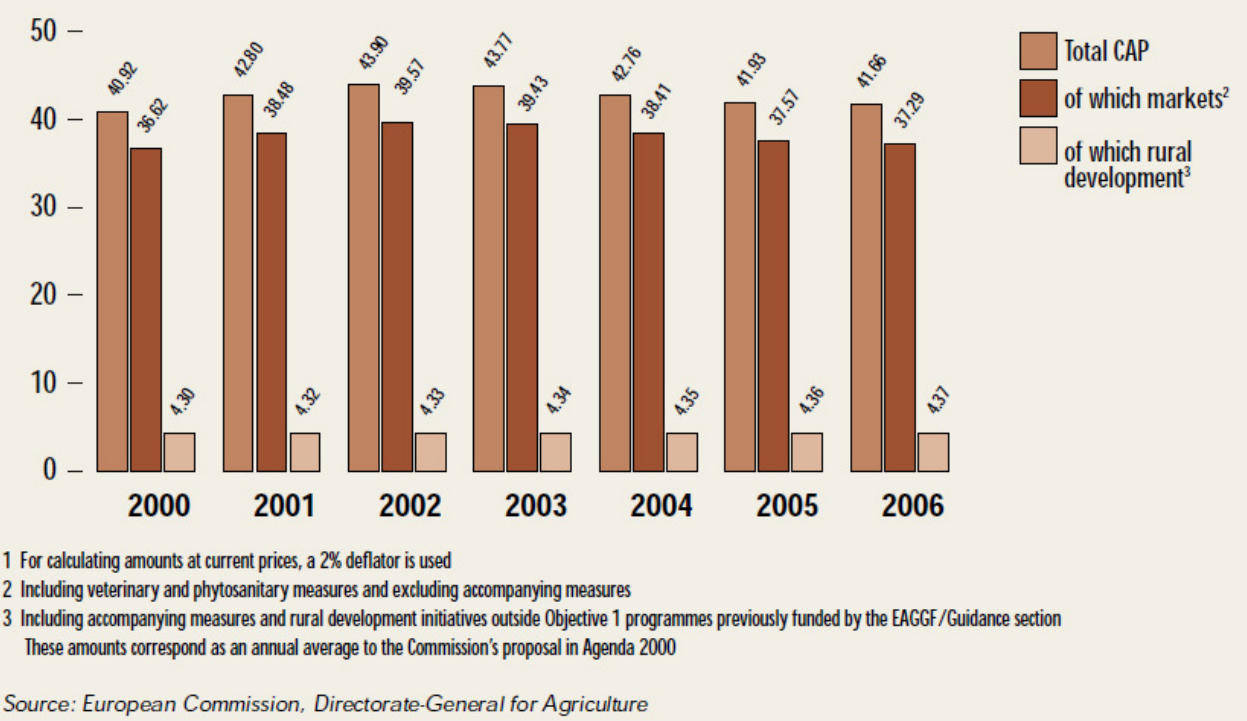
> opportunities, such as renewable environmentally friendly energy sources" (European Commission: Agriculture and Rural Development 2007, 1).

These objectives are similar to the U.S. objectives but with more focus on the environment and the value of rural communities.

Like the U.S. farm bill, the CAP has remained fairly dynamic over the years with much being changed since its inception in Western Europe in the 1950's. Indeed, the CAP is a constantly changing policy with significant changes occurring fairly frequently but particularly when the budget is to be reviewed. The relevant CAP budget for the Chilean negotiations was from 2000 to 2006. Previous CAPs had focused on competitiveness for European farmers and production limits in the 1990s to help reduce surpluses. The "Agenda 2000" reform shifted more emphasis towards "a rural development policy encouraging many rural initiatives while also helping farmers to re-structure their farms, to diversify and to improve their product marketing" (European Commission: Agriculture and Rural Development 2007, 4). This introduced the "pillar approach" still in use in the EU today wherein the first pillar provides support for farmer competiveness by way of income supports, supply controls, and other programs—although these have changed since 2000[35], which still constituted the majority of CAP expenditures in the relevant time period. The second pillar focused on this new rural development emphasis (Europa 1999). Figure A.2.5 shows the budget over the 2000-2006 time period broken down into the first pillar (identified by "of which markets") and the second pillar (identified by "of which rural development").

[35]Reforms made in 2003 moved much of the support to decoupled payments.

Figure A.2.5: CAP Expenditure from 2000-2006, Billions of Euros in 1999 Prices



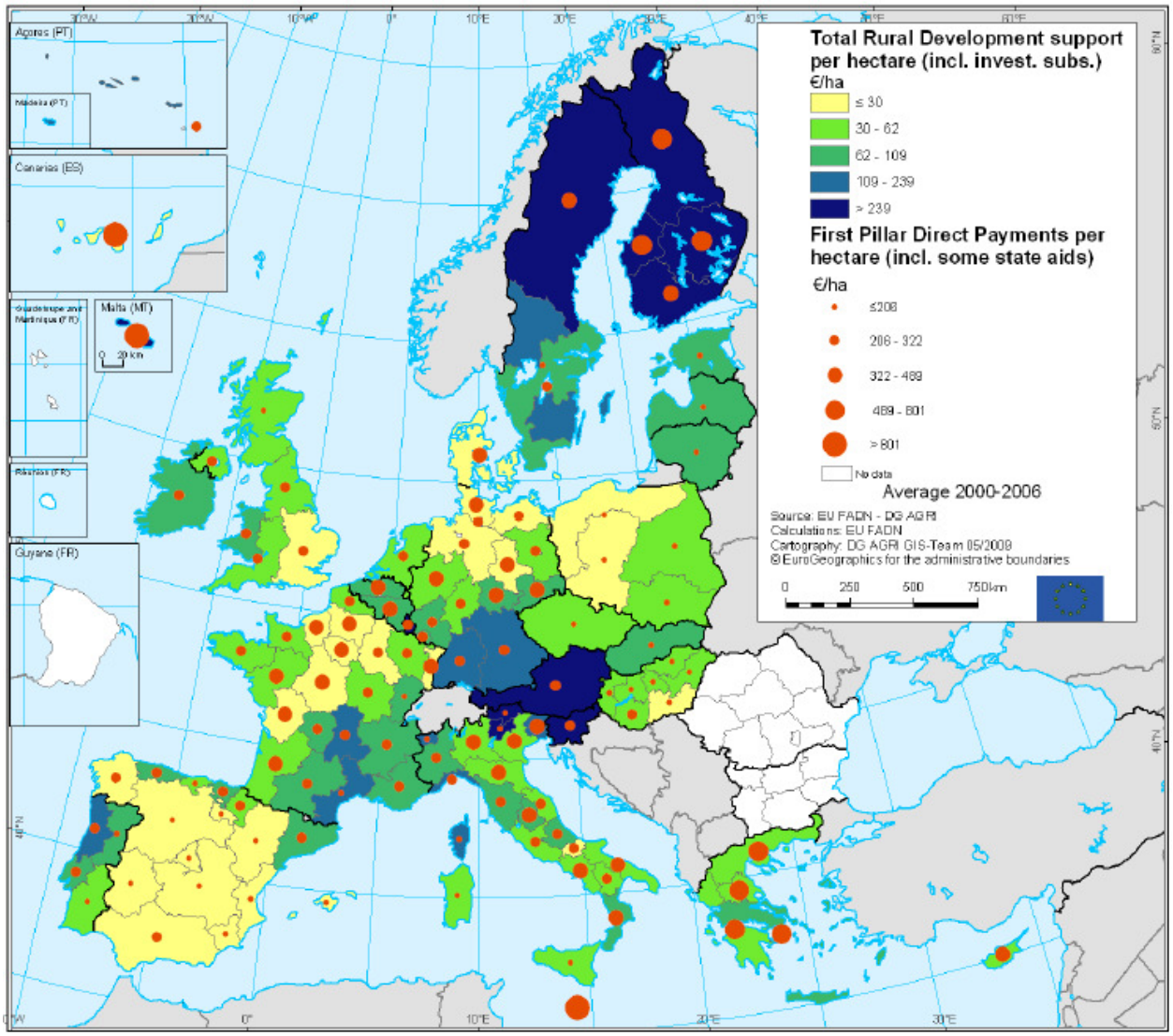
Source: European Commission, DG for Agriculture. 1999. "Agenda 2000-A CAP for the Future." Internet site: http://ec.europa.eu/agriculture/publi/review99/08_09_en.pdf

In terms of the first pillar, the agricultural products covered include: beef and veal, milk and milk products, tobacco, olive oil and wine as well as arable crops including cereals, maize, and oilseeds, among others. Beef and veal moved from quotas and significant market support to storage programs, export subsidies, and direct income payments. For milk and milk products, public storage and quotas remained a dominate policy along with intervention prices. In the wine sector, regulations on planting vines keep the supply under control and direct the sector to a more "demand-oriented approach" to new winery development. Furthermore, marketing programs exist for the wine sector as well. Much of the payments for crops and oil changed to more direct payment schemes and set-aside programs (Europa 1999). Indeed, direct payments made in this area are actually defined as rural development support and constituted 22% of the market access pillar (European Commission 2009). Important to these payments is the "cross-compliance"

requirement which allows for payments to be reduced or cancelled if producers do not meet environmental targets (Europa 1999).

In terms of rural development policy, much of the funding goes towards structural programs. The funding from 2000-2006 was directed to meet objectives in three main areas: less-favored areas, agri-environment, and investment subsidies. In the actual rural development budget, agri-environment was the area most supported by the funds (45%) followed by less favored area support (33%) and then investment subsidies (20%) (European Commission 2009, 1). In terms of rural development subsidies by area, farmers in Austria, Norway, Finland, southern Germany and a few areas in France and Portugal received over 100 euros per hectare (Figure A.2.6). Other countries receive more support from the first pillar than from the second such as Denmark, Spain, Italy and Greece (European Commission 2009, 2). Interestingly, rural development recipients "receive on average quite similar 'first pillar' direct payments per ha" as the rural development payment levels (European Commission 2009, 40).

Figure A.2.6: Map of Average Rural Development Support in Europe, 2000-2006, Euros/ha



Source: European Commission (2009), Rural Development (2000-2006) in EU Farms, found at http://ec.europa.eu/agriculture/rica/pdf/rd0201_report_final.pdf on July 13, 2011

In addition to subsidies, there are other factors which make the agricultural sector sensitive. For one thing, the majority of EU land is devoted to agriculture and forests even if less than 5% of the workforce is in agriculture. While agricultural exports represent 7% of total exports, the EU 27 has generally had a negative trade balance in agricultural goods with a deficit around 20 billion euros from 1998-2003 (European Commission 2004, Annex 2). The Euro Area has had a positive trade balance in agricultural goods. The EU countries which are typically net

agricultural exporters include Belgium, Denmark, Ireland, Spain, France, Hungary, and the Netherlands. Since 1999, the Netherlands has had the highest trade balance in agricultural goods (Eurostat 2011).

In terms of specific goods, some goods are particularly sensitive because of the structure of production, consumption and trade. For example from 1999-2003, raw sugar was neither exported nor imported in the EU. Processed sugar on the other hand was both imported and exported. This reflects sensitivity in sugar production but an opportunity for sugar processors. Around 30% of cereal production was exported in this time period as well with almost 40% of total wheat and sorghum production being exported suggesting areas where the EU may prefer to pursue market access opening strategies. Rice consumption, on the other hand, outweighed production in this time period making it much more import-competing. In terms of oil crops, consumption far outweighs production, especially for soybeans where production was less than 10% of total consumption from 1999-2006. The EU was generally not self-sufficient in vegetable oils either (FAOSTAT 2010).

The EU did produce more vegetables than they consumed, however, they imported almost a third of their total production. The EU was not self-sufficient in fruits, however as the EU imports much of their citrus fruit consumption (FAOSTAT 2010). Fruits and vegetables as a group are often too vague of categories to define them as import-competing or export-oriented; rather a particular good such as tomatoes may be sensitive if the EU produces a lot of them as does Chile. Indeed, the EU actually excluded a few specific fruits and vegetables in the agreement such as mushrooms, sweet corn and beans. Other goods that the EU lists as sensitive that Chile produces a great deal of include artichokes, table grapes and apples (Rudloff and Simons 2004).

In terms of milk and meat, the EU remained self-sufficient over the time period analyzed. Exports of bovine meat constituted over 30% of total production whereas poultry exports were around 25%. Exports of milk as a percentage of total milk production were around 30% from 1999-2003 (FAOSTAT 2010). However, much of the sensitivities in this area result from the policies for these programs as indicated by the last section which included production limits and intervention prices (European Commission: Agriculture and Rural Development 2007).

The EU produced just under half of their total fish consumption from 1999-2006 (FAOSTAT 2010). Much of the troubles in fish are dealt with separately from agricultural negotiations according to what the WTO defines as agriculture. However, fish can be quite sensitive and in the case of the EU, some of that sensitivity deals with fishing rights. Spain does not recognize the Exclusive Economic Zone (EEZ) which defines a fishing territory as belonging to a country out to 200 nautical miles. This is quite a sensitive issue with Chile who has a very export-oriented fishing sector combined with problems of over-fishing in their high sea zones. Indeed, to prevent fishing of their high seas, Chile will prevent docking at their ports.

Although the EU is a large producer, exporter and consumer of wines and beers, much of the sensitivities in this area come from issues of geographical indicators (GI). Indeed intellectual property rights (IPR) and GI's are important to the EU as it threatens the competitiveness of European goods in foreign markets (European Commission 2004). This is especially true for GI's for wines and cheeses that originate in a particular area or that utilize a particular production process. Chile particularly has the ability to be competitive with the EU in wines because most of the grapes used in Chilean wine production come from Europe (EU interview). As such a protection for GIs ensures that the EU may still get a premium for their products in Chile and

that Chile cannot export cheaper wines to the EU under a name that reflects the quality of typical European wines.

A.2.6.2 Structure of Agriculture in the EU

Agriculture is difficult worldwide both in terms of domestic and international policy. The EU is no different in this respect. Indeed, frustrations over the inability to reform agricultural policy in the EU are similar to those in the U.S. Further like the U.S., trade agreements are not pursued because of agricultural reasons but rather for other political reasons (EU Interview). Nevertheless, once negotiations are initiated, agricultural groups, businesses, and industry begin the process of lobbying in order to capitalize on the opportunities and to mitigate the possible threats posed by FTA negotiations. Each country in the EU must deal with agricultural groups on the country level and then the countries must express their conditions and concerns to the EU.

In terms of the actual procedure of FTA negotiations, the Commission is the negotiator (particularly the Trade directorate general (DG) with the help of a few other DGS such as industry and agriculture) but they must work closely with member states and the parliament. The Council, which is composed of ministers from each of the countries in relevant areas such as foreign relations or agriculture, provides "negotiating directives" laying out specific objectives and guidelines of the negotiations. Once an agreement is reached, the Council and the Parliament formally agree on the outcome if it has met the negotiating directives. An agreement is implemented once it is fully ratified by each member state (European Commission: Trade 2011).

Because of the structure of EU FTA negotiations, much of the pressure from agricultural groups is applied at the national level rather than the EU level and helps to provide information regarding the "negotiating directives". This is not to say that the EU is unaware of the desire of their constituents without direct consultation with the countries. According to one study regarding globalization, two thirds of Europeans are favorable towards globalization although

they contend that more rules should be in place to make the effects of globalization more favorable to everyone (European Commission 2004, Annex 1). Aside from this, the EU requests public consultations on EU policy by way of the commission website. At the time of the agreement, there was actually much more involvement from the states and industries than exists today (EU Interview).

One of the more important influences in the negotiations is the trade Sustainability Impact Assessment (SIA). The SIA includes impacts in terms of macroeconomics, implementation, and specific sectoral impacts. For the Chilean agreement, there were sections for Grains, other Agriculture and Forestry, processed foods, mining, fisheries and transport, electricity and tourism, services, FDI and intellectual property. It includes environmental, economic and social impacts both in the EU and the partner country. One criticism of using such a report is that the impacts will always be much greater for a smaller country than the EU due to relative size (EU Interview).

A.2.6.3 Different Approaches for Sensitive Agricultural Goods in the EU

Like the U.S. and Chile, the EU does have different approaches for agricultural goods. At the Institute of Agricultural Policy, researchers determined that there are three main rules for FTA negotiations in the EU: 1) high domestic protection is indicative of a lower willingness to reduce tariffs, 2) high domestic protection combined with high internal surpluses is indicative of maintenance of TRQ's without additional extensions, and 3) remarkable surpluses motivate the EU to improve its access to other markets wherein they want fewer restrictions for these goods in the partner countries (Rudloff and Simons 2004, 3). Furthermore, the statement made by these researchers that "the agricultural parts of the EU FTAs contend with the conflict of trade liberalization on the one hand and national interests to limit market access on the other hand" are struggles that are similar in the U.S., Chile, and other countries all over the world (Rudloff and

Simons 2004, 8). As such the process in FTA negotiations always involves determining which goods could benefit from preferential market access and defining timetables for tariff reductions.

The difficulties faced in wines and other special products call for more extensive and variable solutions. It is often the case that the EU would prefer to simply exclude such issues in an FTA with preference to make progress on these topics at the multilateral level. Nevertheless, in the absence of progress at the multilateral level, some issues may be addressed in an FTA. For wine and other products requiring GI protection, institutional arrangement can be included in an FTA to deal with this, such as the resulting agreement on trade in wines and spirits. These agreements can simply be an agreement on rules or can specifically relate to tariff lines, ROO, and other issues of trade in these products.

A.2.7 Conclusions on Agriculture in FTAs

In general, the U.S., the EU and Chile are all subject to pressures when it comes to negotiating FTAs particularly in agriculture. Often these pressures are internal: political reasons for protection, agricultural protection groups are particularly powerful, and the climate leads to a certain bundle of goods which are produced easily and a much smaller bundle of goods which are only produced in certain areas. Nevertheless many pressures are external: motivations may be based on foreign policy objectives, trade diversion costs, or opportunities to pursue another market. These pressures, while similar in some ways and different in others, lead to certain negotiating environments and behaviors in FTA negotiations.

ANNEX 2 BIBLIOGRAPHY

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